

as of January 1, 1999

LAW ON ORGANISATION AND OPERATION OF PENSION FUNDS

CHAPTER 1 Common provisions

Article 1. This Act defines the terms of creation and functioning of pension funds, hereinafter called "funds".

Article 2. 1. The fund shall be an incorporated entity. 2. The business of the fund covers the accumulation and investing of money with the object of paying [pension] benefits to fund members upon their reaching the pensionable age.

Article 3. 1. The pension society created pursuant to the provisions of this Act, hereinafter called "society", shall be the agency of the fund.

2. The society shall create the fund and, as the agency of the fund, it shall manage the fund and represent it before third persons.

3. The society shall represent the fund in such manner as the fund's Articles of Association may prescribe with regard to the representation function.

Article 4. The seat of the society shall be the seat of the fund.

Article 5. The fund members shall not be liable for the fund's commitments.

Article 6. 1. The member contributions paid into the fund, the rights acquired using the contributions, and benefits deriving from the said rights shall be the fund assets.

2. The fund's net asset value shall be established by deducting the fund's liabilities from the value of the fund assets.

Article 7. This Act shall be without prejudice to those other laws which provide for the payment of pecuniary benefits in connection with the reaching of the pensionable age.

Article 8. Throughout this Act the following words shall have the following meaning:

1) affiliate -- shall mean the controlling company, a subsidiary, or an associate of a given entity in the meaning given to these terms in Article 3 clause 1 item 4 of the 24 September 1994 Accounting Practices Act [...] and a subsidiary of the said entity's controlling company,

2) fund member -- shall mean that individual who has entered into a contract with the fund, or that one in whose name an account has been opened with the fund in circumstances defined in this Act,

3) credit transfer -- shall mean the removal of money held in a member's account from one fund to another, or the removal of the same from one to another account maintained with the same fund,

4) pension insurance company -- shall mean that joint-stock company which carries on, on terms laid down in separate provisions, a business of insurers consisting in the offering and paying to the members of open funds, upon their reaching the pensionable age, of for-life pension benefits financed with money accumulated by the said funds,

5) open fund -- shall mean that pension fund which has been created and is managed by a general society,

6) employee fund -- shall mean that employee pension fund which has been established and is managed by an employee society,

7) society -- shall mean that joint-stock company which is the agency of a fund,

f) general society -- shall mean that general pension society which is the agency of an open fund,

9) employee society -- shall mean that employee pension society which is the agency of an employee fund.

CHAPTER 2 Pension funds

Article 9. 1. The fund shall be created as an open fund or an employee fund.

2. The fund shall be created by none other than the society.

Article 10. 1. The name of an open fund shall include the designation "open pension fund" and the name of an employee fund shall include the designation "employee pension fund".

2. No fund other than one created pursuant to this Act shall incorporate the designation "pension fund" in its name or use the same for purposes of describing or advertising its business.

Article 11. The life of the fund shall be indefinite.

Article 12. The following shall be required for the creation of the fund:

1) that the society grant the fund's Articles of Association,

2) that the society and the depositary enter into a contract for the custody of the fund assets,

3) that the society obtain a permit to create the fund,

4) that the fund be entered in the register of funds.

Article 13. 1. The fund's Articles of Association shall be adopted by the General Meeting of the society.

2. The Articles of Association of the fund shall state:

1) the name of the fund,

- 2) the trade name, seat and address of the society,
- 3) the society's share capital, its shareholders, and the numbers of shares held by individual shareholders,
- 4) the manner of representation of the fund by the society,
- 5) the trade name (name), seat and address of the depository,
- 6) the types, maximum amount, manner of and procedure for calculating and covering the costs incurred by a fund;
- 6a) the types, amount, manner of calculating and covering the costs incurred by fund members, including the amount of the fees referred to in Art. 134, clause 1;
- 7) that manner in which the fund shall announce changes in its Articles of Association,
- 8) other particulars provided in this Act.

3. In addition to the particulars referred to in clause 2 the Articles of Association of the open fund shall determine:

- 1) that national daily paper in which the fund shall publish its announcements,
- 2) time limits for the publishing of the fund's offering circular.

4. In addition to the particulars referred to in clause 2 the Articles of Association of the employee fund shall determine:

- 1) the time limits and the form and procedure for the disbursement of money accumulated in the members' accounts,
- 2) the fund's investment rules and standards, including a notification as to whether the fund proposes to manage its assets itself or to entrust the management of the same to a third party.

5. The Chairman of the Council of Ministers may by Ordinance identify other particulars to be stated in the Articles of Association of the fund where interests of the fund members require inclusion of the same.

Article 14. When applying for the permit to create the fund, the society shall append the following documents to the application: 1) the fund's Articles of Association,

2) the contract with the depository,

3) a current copy of the commercial register entry pertaining to the society,

4) the personal data of those employees of the society, or of those the society proposes to employ, who influence [or will influence] importantly the management of the fund's finances,

5) a specification of those persons to whom the depository has assigned the discharge of the duties set forth in the contract,

f) a synopsis of the professional qualifications and backgrounds of the persons referred to in item 4 and item 5, naming those with the investment advisor status,

Article 15. 1. The Office for Pension Funds Supervision, hereinafter called "Supervision Office", shall issue a permit to create the fund within 3 months of that day on which the application has been filed.

2. The Supervision Office shall refuse the permit where:

- 1) the application and the documents appended thereto fail to satisfy the requirements set forth in this Act,
- 2) the fund's Articles of Association fails to duly protect the fund members' interests,
- 3) the persons referred to in Article 14 item 4 and item 5 do not warrant proper discharge of their duties.

Article 16. 1. Upon obtaining the permit to create the fund the society shall forthwith file with the registration court an application requesting that the fund be entered in the register of funds.

2. The following shall be appended to the application:

1) the permit to create the fund,

2) the fund's Articles of Association,

3) the Articles of Association of the founder society, with a current copy of the commercial register entry pertaining to the society enclosed,

4) a specification of the members of the society's Management Board.

3. The registration court shall take cognizance of the application within 14 days of that date on which the application has been filed.

4. Failing the satisfaction of the requirements laid down in this Act the registration court shall refuse to enter the fund in the register of funds.

5. Upon being entered in the register of funds the fund shall promptly deliver to the Supervision Office a duplicate of the commercial register entry pertaining to the fund.

Article 17. The entry in the register of funds shall cover:

1) the name of the fund,

2) the trade name, seat and address of the society, the manner of representing the fund, and the number under which the society has been entered in the commercial register and the designation of the court keeping the register,

3) the given names and surnames of the members of the society's Management Board and of the society's procurators, where established,

4) the trade name (name), seat and address of the depository.

Article 18. The permit to create the fund shall expire in the event that the society fails to file the application for entering the fund in the register of funds within 2 months of the date of service of the permit.

Article 19. 1. Prior to that day on which the fund is entered in the register of funds the society shall make all legal transactions conducive to the creation of the fund in its own name and for its own account.

2. Upon being entered in the register of funds the fund shall assume those rights and obligations of the society which arise from the contract with the depository referred to in Article 14 item 2.

Article 20. 1. The fund shall be incorporated as of being entered in the register of funds.

2. As of the entry of the fund in the register of funds the society shall become the agency of the fund.

Article 21. 1. The register of funds shall be kept by the Voivodship Court in Warsaw, hereinafter called "registration court".

2. The register of funds shall be public and accessible to third persons.

3. The Minister of Justice shall by Order prescribe the manner of keeping the register of funds and the detailed procedure for the processing of matters concerned with applications for entry in the register of funds.

Article 22. 1. Any modification to the Articles of Association of the fund shall require a permit of the Supervision Office.

2. The Supervision Office shall refuse the permit where a modification is unlawful or against the fund members' interests.

3. Any decision on modifying the Articles of Association of the open fund shall be taken by the general society by the instrument of a resolution adopted by the General Meeting.

4. Any decision on modifying the Articles of Association of the employee fund shall be taken by the employee society by the instrument of a resolution adopted by the Supervisory Board. The decision of the Supervisory Board shall be subject to endorsement by the General Meeting.

Article 23. 1. The open fund shall announce each modification to its Articles of Association in that national daily paper which is the designated medium of the fund's announcements.

2. The modification to the Articles of Association shall take effect on the date indicated in the announcement of modification but no earlier than 5 months of that day on which the announcement is given.

3. The Supervision Office may allow the 5-month period referred to in clause 2 to be shortened where [bringing forward the effective date of the modification] is not against the fund members' interests or where it is essential to the fund members' interests.

4. The fund shall notify the Supervision Office of the announcement given and the date thereof and it shall file with the registration court a motion requesting that the modification to the Articles of Association be entered in the register. Appended to the motion shall be: the Supervision Office's permit for the modification to the Articles of Association; the resolution on the modification to the Articles of Association and the uniform text [of the Articles of Association]; and the notification of the announcement given and date thereof.

5. The registration court shall make in the register an entry recording the modification to the Articles of Association and the date on which the modification takes effect. Article 16 clause 3 shall apply respectively.

Article 24. 1. Any modification to the Articles of Association of the employee fund shall be notified in writing to the shareholders of the employee society and it shall take effect on the date indicated in the announcement but no earlier than one month of that day on which the notice [of modification] has been served upon the last shareholder.

2. Where a modification to the Articles of Association gives rise to such financial repercussions as affect the members of the employee fund, whether by adding to the fund's financial encumbrances or by introducing less advantageous terms of disposal by the members of money accumulated in their accounts, such modification shall take effect on the terms laid down in the 22 August 1997 Employee Pension Plans Act [...]*.

3. **Article 23** clauses 3-5 shall apply respectively provided that that General Meeting resolution whereby the resolution on the modification of the Articles of Association is approved shall be additionally appended to the motion for entering in the register the modification to the Articles of Association.

Article 25. 1. Where any of the particulars referred to in Article 17 clause 3 should change the fund shall forthwith file a motion requesting that the updated particulars be entered in the register of funds, with a current copy of the commercial register entry pertaining to the society appended.

2. Those changes which have arisen in connection with the takeover by another society of the management of the fund shall not be entered in the register otherwise than on submission of the following documents:

1) a permit of the Supervision Office authorising the takeover of the management of the fund,

2) a notification that the Chairman of the Office for Competition and Consumer Protection has not objected to the takeover of the management of the fund -- where the management of the fund is taken over by a general society.

3. Clause 32 shall apply respectively to a merger of two or more societies.

Article 26. 1. The funds' accounting practices and time limits for the preparation, audit, and submission for publication of the fund's financial statements shall be governed by the Accounting Practices Act.

2. The society shall approve the fund's annual report by a resolution adopted by the General Meeting.

CHAPTER 3 Pension societies

Article 27. 1. The society shall operate in no other form than that of a joint-stock company.

2. The society shall operate as a general society or an employee society.

Article 28. 1. The trade name of a general society shall include the designation "general pension society" and that of an employee society shall include the designation "employee pension society".

2. No society other than that created pursuant to this Act shall use the designations referred to in clause 1.

Article 29. 1. The society shall have no business object other than that of creating and managing funds and representing the funds before third persons. No operator other than the society shall carry on the aforesaid business.
2. Subject to Article 229 the society shall create and manage no more than one fund, save where the society should become the manager of two or more funds through taking over the management of another fund, or through a merger of two or more societies.

3. The general society shall manage the fund for a fee.

4. The employee society shall be a non-profit organisation. The shareholders of the employee society shall not be entitled to any share of the annual profit.

Article 30. 1. The society shall not raise its share capital by public subscription.

2. The society shall issue no shares other than registered shares which shall not be convertible into bearer shares.

3. The society shall not issue preferred shares.

4. The Articles of Association of the society shall accord equal treatment to all shareholders. In particular the Articles of Association shall not vest additional rights in certain shareholders or limit the rights of certain shareholders, nor shall it impose additional duties on selected shareholders.

5. Clause 3 and clause 4 shall not apply to a shareholder being a trade union, an organisation of employers, [or] a business chamber or an occupational community's self-regulating organisation operating pursuant to this Act.

Article 31. The general society shall have a share capital of no less than a zloty equivalent of ECU4,000,000 converted at the National Bank of Poland's average published exchange rate prevailing on the date of execution of the society's Articles of Association.

Article 32. 1. The share capital of the society shall not be contributed otherwise than in money.

2. The share capital of the general society shall be paid up in whole prior to the registration of the society.

3. The share capital of the general society shall not derive from a loan or credit, nor shall it be encumbered in any way.

Article 33. 1. The general society shall at all times maintain its own capital at or above a level of one-half of the minimum share capital referred to in Article 31.

2. Should the own capital decline below the level referred to in clause 1 the general society shall forthwith notify the Supervision Office to that effect.

3. Should the society fail to increase the own capital to the requisite level within such time period of no less than 3 months and no more than 12 months as the Supervision Office may appoint, this shall constitute a basis for the revocation by the Supervision Office of the permit to create the society.

Article 34. Where the general society is created by a corporation or corporations, the reservation set forth in the third sentence of Article 308 of the Commercial Code shall not apply.

Article 35. 1. The employee society may be created by [any of] the following founders: a natural person, a corporation, an unincorporated entity, resident or having its seat in the territory of the Republic of Poland.

2. If employers who are legal persons are founders of an employee society, Art. 34 shall duly apply.

Article 36. Throughout this Act any reference to the founders of a society shall be understood to include the shareholders of that society.

Article 37. 1. One entity shall be a shareholder of no more than one general society.

2. Affiliates shall be shareholders of no other but the same general society.

3. Where two or more entities being shareholders of different general societies have merged, or where [two or more] entities being shareholders of different general societies have become affiliates, the Supervision Office may agree to waive the limitation under clause 1 or clause 2 for up to 6 months with the object of allowing the operator evolved through the merger or, as the case may be, the entities which have become affiliates, to adjust their business to the requirements of this Act.

Article 38. 1. Any purchase or acquisition by other means of shares of the society shall require a permit of the Supervision Office, subject to clause 4. Any legal transaction executed in violation of the aforesaid reservation shall be invalid.

2. The application for the permit shall be filed, through the intermediary of the society, by the party proposing to purchase or otherwise acquire the shares.

3. The Supervision Office shall permit the purchase or acquisition by other means of the shares where the applicant satisfies the requirements laid down in this Act with regard to the founders of the society.

4. If a subscriber is an existing shareholder, he shall advise the Supervision Office of having subscribed shares within 14 days of their subscription. However, the subscription of shares which results in exceeding 20%, 25%, 33%, 50%, 66%, 75% or 80% respectively of voting rights at the General Meeting shall require permission from the Supervision Office.

5. Clauses 1-4 shall apply respectively to the acquisition of rights in shares of the society.

Article 39. 1. The following are the governing bodies of the society:

- 1) the Management Board,
- 2) the Supervisory Board,
- 3) the General Meeting.

2. The society may appoint the Audit Commission. Article 43, Article 44, Article 59 clause 1, Article 148 item 3, Article 150 item 1b), Article 158 clause 1 item 5a), Article 204 clause 1 item 2, and Articles 206 and 209 to the

extent concerning the Supervisory Board shall apply to the Audit Commission.

Article 40. 1. Save as otherwise provided in the Articles of Association, the members of the Management Board of the general society shall be appointed and recalled by the General Meeting.

2. The members of the Management Board of the employee society shall be appointed and recalled by the Supervisory Board.

3. The members of the first Management Board of the employee society shall be appointed by the founders for a 1-year term.

Article 41. 1. Eligible to sit on the Management Board of the society shall be those who satisfy the following requirements:

1) are possessed in full of the legal capacity,

2) have not been sentenced under a valid court verdict for an offence against property, [or] against the credibility of documents, [or] against trade, [or] against the money turnover or the securities trade, [or] against the Treasury, [or] for the offence referred to in Chapter 22,

3) have higher education,

4) have a record of employment of 7 years or more,

5) warrant the proper discharge of their duties as Management Board members, subject to clause 4.

2. No less than one-third Management Board members shall have higher education in Law or in Economics.

3. No less than two-thirds Management Board members shall satisfy the requirement laid down in clause 1 item 4.

4. The compliance with the requirement laid down in clause 1 item 5 shall be assessed on the basis of the enclosures, referred to in Article 54 clause 1 item 5 and item 6, to the application for permit to create the society.

5. Where the specifications laid down in clause 2 or clause 3 are not satisfied due to removal from office of a Management Board member, the society shall within 6 months adjust its business to the requirements laid down in this Act.

Article 42. 1. Ineligible to be a member of the Management Board of a general society shall be those sitting on a governing body or a supervisory body of:

1) a shareholder of the society,

2) another general society,

3) a depositary having the custody of an open fund's or an investment fund's assets,

4) a National Investment Fund or a firm managing the assets of a National Investment Fund,

5) an investment funds society or a shareholder of an investment funds society,

6) a firm pursuing the business of brokers as defined in the public trading in securities provisions, or any other business of public trading in securities,

7) an affiliate of any of the entities referred to in items 1-6.

2. The disqualification under clause 1 shall apply equally to those whose relation with the entities referred to in clause 1 arises from a contract of employment, a job contract, or a legal relationship of a similar nature.

Article 43. The members of the first Supervisory Board of the society shall be appointed for a 2-year term.

Article 44. 1. Eligible to sit on the Supervisory Board of the society shall be those who satisfy the requirements laid down in Article 41 clause 1 item 1 and item 2 and warrant the correct discharge of their duties as Supervisory Board members.

2. No less than one-half members of the Supervisory Board of the society shall have higher education in Law or in Economics, provided that with respect to the employee society the aforesaid requirement shall be understood to apply to no less than one-half of those members of the Supervisory Board who are appointed otherwise than pursuant to Article 45 clause 1.

3. No less than one-half members of the Supervisory Board of the general society shall be appointed from among those who are neither shareholders of the society nor sit on a governing or supervisory body of a shareholder of the society.

4. Clause 1 shall be applied subject, as appropriate, to clause 4 and clause 2 of Article 41, and clause 3 shall be applied subject, as appropriate, to clause 5 of Article 41.

Article 45. No less than one-half seats on the Supervisory Board of the employee society shall be filled by persons elected by those members of the employee fund to whose accounts contributions have been paid within the 12 months immediately preceding the election day.

2. The Articles of Association of the employee society shall determine a number of seats on the society's Supervisory Board to be filled by persons elected by the members of the employee fund; a procedure for the election of the said persons shall be determined in the rules adopted by the Supervisory Board.

3. The rules referred to in clause 2 shall establish in particular whether the election is directly by the [fund] members or by their chosen representatives and it shall lay down the terms of recalling the elected Supervisory Board members before the end of the Supervisory Board's term. The rules shall not make the validity of the election contingent upon a certain turnout.

4. Where the rules provide for the election by representatives of the membership, they shall likewise determine the procedure for the choosing and recalling of the representatives and the representatives' term of office.

5. The first election of the Supervisory Board members elected by the employee fund members shall be held no later than 3 months of that date on which the fund has received the first contribution. Prior to the said election the

Supervisory Board shall sit in such number, which shall be no less than 5 members, as the founders of the employee society have appointed.

6. The failure to fill the Supervisory Board seats assigned to members elected by the employee fund members within the time period referred to in clause 5 shall not prevent the Supervisory Board from adopting important resolutions.

7. Where the mandate of a Supervisory Board member elected by the employee fund membership has expired before the end of the Supervisory Board's term, the Supervisory Board shall forthwith call a by-election.

Article 46. Article 379 paragraphs 3-5 of the Commercial Code shall apply solely to those members of the Supervisory Board of the society who are elected otherwise than pursuant to Article 45 clause 1.

Article 47. An individual who is a member of the management or supervision bodies or is employed or commissioned tasks or subject to any other legal relationship of a similar nature with the entities referred to in Art. 42, clause 1, items 1-7, shall not be an employee of a universal society who can decide on the manner of investing the assets of an open fund.

Article 48. 1. The society shall be liable to the fund members for any loss suffered through non-performance or negligent performance by the society of its duties as the fund manager and representative, save where a non-performance or negligent performance of the said duties should be due to circumstances for which the society is not responsible and which it has been incapable of preventing by the exercise of utmost care.

2. The fund shall not be liable for losses incurred through non-performance or negligent performance of the duties referred to in clause 1.

3. Where the general society's liability for a loss is excluded on the strength of clause 1, the loss shall be covered from the Guarantee Fund's resources, save where the loss should occur solely through the injured party's fault.

Article 180 shall apply respectively.

4. Clause 3 shall apply equally where a general society should be proclaimed bankrupt [and] that loss for which the society is liable should be incapable of being made good from the society's bankrupt estate. The making good of a loss from the bankrupt estate shall be subject to the seniority of claims established in Article 177 clause 2.

5. Where the society has delegated the discharge of certain duties to a third person, this shall not limit the liability of the society.

Article 49. 1. The following persons shall be bound to protect professional secrets concerning the business of the fund:

1) the members of the society's statutory governing bodies,

2) the employees of the society,

3) those whose relation with the society or the fund arises from an agency contract or another legal relationship of a similar nature,

4) the employees of those entities which are linked with the society or with the fund by the relationship referred to in item 3.

2. For purposes of clause 1 the professional secret shall mean that information concerning the fund's investments, [or] the register of the fund members, [or] fund members' testamentary dispositions, [or] the statements referred to in Article 83 the disclosure of which might jeopardise certain interests of the fund members or of investors in publicly traded securities.

3. Clause 3 shall not apply to the disclosure of a professional secret [in the following circumstances:] to the public prosecutor in connection with a suspected commission of an offence; or at the request of the public prosecutor, or the court, or another relevant agency of the state where the request is made in connection with ongoing proceedings concerning the business of the fund, the society, or the depository, including at the request of the Supervision Office in connection with the exercise by the Supervision Office of the duty of overseeing of the funds' performances.

Article 50. 1. The society shall not:

1) purchase or otherwise acquire equity stakes, shares or other securities, units of investment funds or units issued by mutual investment institutions domiciled abroad, or be a partner in an unincorporated partnership,

2) acquire securities issued by the depository,

3) make loans, give guarantees, or stand surety, except for loans made from the employer-operated social benefits fund,

4) borrow, whether under loans, credits, or by making bond issues, in excess of 20 percent of the society's own funds cumulatively.

2. Clause 1 item 1 shall not apply to:

1) securities issued by the Treasury or the National Bank of Poland,

2) equity stakes in or shares of that company which keeps the register of members for a fund managed by the society,

3) equity stakes in or shares of those companies which carry on the business of clearing capital market transactions, [when the said equity stakes or shares are acquired] in such numbers which do not give rise to the relationship of a subsidiary and the controlling company as defined in the provisions on public trading in securities,

4) securities issued pursuant to the cheque law.

Article 51. 1. The society shall safe-keep and store in the archives the documents and other vehicles of information of the fund managed.

2. Should the fund be liquidated in the manner described in Article 71 clause 1, the documents and other vehicles of

information referred to in clause 1 shall be kept by the fund liquidator -- and where an employee fund should be liquidated the manner described in Article 75, the documents and other vehicles of information referred to in clause 1 shall be kept by the depositary. The obligation to safe-keep [the aforesaid materials] shall continue for 50 years of the completion of the liquidation of the fund.

3. Notwithstanding the obligations laid down in clause 1, the depositary shall safe-keep and store in the archives, for 50 years of the completion of the liquidation of the fund, all such documents and other vehicles of information as pertain to the discharge of the tasks of the depositary.

4. In the event of failure of liquidation of the depositary Article 460 paragraph 2 of the Commercial Code shall apply to the documents and other vehicles of information pertaining to the management of the fund or to the performance of the tasks of the depositary. The court of competent jurisdiction shall advise the Supervision Office forthwith of the custodian appointed.

5. On matters not regulated in this Act the Commercial Code shall apply to the society.

CHAPTER 4

Business of pension society, terms of commencement

Article 53. The creation of the society shall require a permit of the Supervision Office.

Article 54. 1. The permit shall be issued against an application filed by the society founders, with the following documents appended:

1) the Articles of Association of the society,

2) the founders' agreement on the forming of the society, their assent to the text of the Articles of Association, and their commitment to take up the [society's] shares,

3) the society's rules of organisation, describing in particular the manner of preventing and deterring the disclosure of that information the use of which might be detrimental to interests of the fund members or of investors in publicly traded securities,

4) a list of the founders, stating whether they are or are not affiliates and describing the nature of relationships existing among them, with documents representing the founders' legal status and origins of money brought into the society as the share capital appended,

5) a specification of the members of the society's statutory governing bodies, exclusive of the persons referred to in Article 45, with the following documents appended: statements by each member, expressing his or her will to serve on the respective statutory body of the society and confirming that he or she satisfies the entirety of the respective requirements laid down in this Act; the personal data of the members and a synopsis of their professional qualifications and backgrounds,

6) documents attesting that none of the members of the statutory governing bodies of the society has a criminal record, to the extent arising from Article 41 clause 1 item 2,

7) documents representing financial standing of each of the shareholders of the society in the 5 years immediately preceding the application filing date, including documents confirming that [none of the shareholders] is in arrears of taxes,

8) the society's organisational and financial plan covering a period of 3 years.

2. When filing the application for the permit to create the general society the founders may apply to the Supervision Office for a provisional permit to create an open fund, to which application the following shall be appended:

1) a draft of the Articles of Association of the fund,

2) a draft of the contract with the depositary,

3) the personal data of those the society proposes to employ, when established, in positions rendering them capable of influencing to a significant degree the management of the fund's finances,

4) a list of persons to be appointed by the depositary to discharge the duties set forth in the draft contract,

5) a synopsis of the professional qualifications and backgrounds of the persons referred to in item 3 and item 4, naming those having the status of investment advisors.

Article 55. 1. The Supervision Office shall issue a decision concerning the permit within 3 months of that day on which the application has been filed.

2. The issuance of the permit shall be tantamount to approval by the Supervision Office of the Articles of Association of the society.

Article 56. 1. Where the founders have applied to the Supervision Office, contemporaneously with filing the application for the permit to create the general society, for the provisional permit to create an open fund -- and in the absence of grounds for refusal of the [provisional] permit -- the Supervision Office shall issue the same together with the permit to create the general society.

2. The Supervision Office shall define in the provisional permit the validity of the provisional permit which shall be no shorter than 6 months.

3. Throughout the provisional permit validity period the Supervision Office shall not refuse a permit to create the open fund, save where the contents of the enclosures referred to in Article 14 should change relative to the contents of the enclosures referred to in Article 54 clause 1 item 1 and clause 2.

4. The [Supervision Office] may refuse to issue the provisional permit to create a fund for [any of] the reasons stated

in Article 15 clause 2.

Article 57. The Supervision Office shall refuse a permit to create the society where:

- 1) the application and the documents appended thereto should fail to satisfy the respective statutory requirements,
- 2) the Articles of Association of the society should contain provisions capable of putting at risk the security of the fund assets or otherwise prejudicial to interests of the fund members,
- 3) the society's 3-year organisational and financial plan as submitted by the founders should fail to sufficiently protect interests of the fund members,
- 4) founders of the society and members of the society's statutory governing bodies should fail to warrant the running of the society's affairs in a manner ensuring due protection to interests of the fund members,
- 5) the documents representing the society shareholders' financial standing in the recent 5 years should indicate that one or more shareholders are in arrears of taxes,
- 6) the share capital of the general society should derive from a loan or a credit or should be encumbered in any way.

Article 58. Any modification to the society's or the depositary's Articles of Association, or to the contract with the depositary, shall require a permit of the Supervision Office.

Article 59. 1. The appointment of the members of the society's Management Board and Supervisory Board shall require a permit of the Supervision Office, save for the re-appointment of those who have served on the said bodies during the preceding term.

2. Clause 1 shall not apply to those members of the Supervisory Board of the employee society who are elected by the employee fund members.

Article 60. The society shall forthwith notify the Supervision Office of any change in the particulars stated in the enclosure, referred to in Article 54 clause 1 item 3, to the application for the permit to create the society.

CHAPTER 5

Takeover of management of pension fund, merger of pension funds, liquidation of pension fund

Article 61. Where a society should be proclaimed bankrupt or where a liquidation proceeding should be opened with respect to it, the Supervision Office shall issue a decision on revocation of the permit to create the society.

Article 62. 1. The Supervision Office may issue the decision on revocation of the permit to create the society where it has established that the fund has been conducting its business contrary to this Act, or contrary to the fund's Articles of Association, or in a manner prejudicial to interests of the fund members.

2. Prior to revoking the permit the Supervision Office may call upon the fund to put its business in order.

3. When withdrawing the licence referred to in clause 1 or when making the demand referred to in clause 2, the Supervision Office may administer upon the society a fine of up to 500,000 zloty in the event that the irregularities detected are exceptionally drastic.

Article 63. The Supervision Office shall name in the decision on revocation of the permit that date on which the decision takes effect.

Article 64. 1. As of the effective date of the decision on revocation of the permit to create the society the fund shall be represented by the depositary. Throughout that period the fund shall not admit new members.

2. Failing the assumption by another society, pursuant to Article 66 clause 3, of the management of the open fund within 3 months of the effective date of the decision on revocation of the permit, the management of the fund shall be assumed by a general society being the manager of that open fund which at the end of the month immediately preceding the one in which the decision on revocation of the permit has taken effect had the highest net asset value, on such terms as the Supervision Office may determine in the decision, in consideration of clause 3.

3. If a licence to form a universal society has been withdrawn due to there being a deficit in the open fund, the universal society which manages the fund having the highest rate of return referred to in Art. 172 will have priority in taking over the management of the open fund.

Article 65. Where the Supervision Office should issue a decision on revoking the permit on grounds other than those referred to in Article 61 and where the said decision should be appealed by complaint to the Supreme Administrative Court, the [Supreme Administrative Court] shall take cognizance of the complaint within 2 months of the same being filed.

Article 66. 1. A general society proposing to discontinue its heretofore business may, under a contract entered into with another general society, assign to the other society the management of the open fund it has hitherto managed.

2. That general society which takes over the management of the open fund shall assume the rights and obligations of the general society which has hitherto managed the open fund. Those provisions of the contract which exclude certain obligations shall be without effect on third persons.

3. Save as provided in clause 1, the society shall not take over the management of a fund otherwise than following revocation by the Supervision Office of the permit for the creation of the fund's hitherto manager society, subject to Article 67.

4. The management of the fund shall be taken over by no other society than one managing a fund of the same kind.

Article 67. 1. One society may merge with another.

2. Article 66 clause 4 shall apply respectively.

Article 68. 1. The taking over of the management of a fund in the circumstances referred to in Article 66 and the merging of two or more societies shall be subject to a permit issued by the Supervision Office.

2. An application for the permit shall be filed by that society which assumes the function of the fund manager and, where the permit sought concerns a merger, it shall be filed separately by each of the societies involved in the merger.

3. The permit to take over the management of the fund or, as the case may be, to bring about the merger of societies shall be equivalent to a permit to modify the fund's Articles of Association to the extent defined in Article 13 clause 2 items 2-4.

4. The permit of the Supervision Office shall define detailed terms of the takeover of the management of the fund or, as the case may be, of the merger of societies.

Article 69. 1. The Supervision Office permit for the takeover of the management of the fund or for the merger of societies shall constitute the legal grounds for liquidating that fund the management of which has transferred to another society, or that one which has hitherto been managed by a society taken over under the merger, or -- where the merger of societies is pursuant to Article 463 item 2 of the Commercial Code -- of that one which is indicated in the application for the permit for the merger of societies pursuant to clause 5.

2. The fund liquidation commencement and completion dates shall be set in the permit.

3. The Supervision Office shall forthwith notify the registration court that the permit has been issued, with a copy of the permit enclosed. The court shall ex officio record in the register of funds the liquidation commencement date and the identity of the liquidator.

4. That society which has taken over the management of the fund shall be the fund's liquidator.

5. Where the merger of societies is pursuant to Article 463 item 2 of the Commercial Code, the application for the permit to bring about the merger shall indicate the fund to be liquidated.

Article 70. 1. The open fund shall promptly give in a national daily paper an announcement of the substance of the Supervision Office permit for the takeover of the management of the fund or, as the case may be, the merger of general societies and of the rights attaching to the fund members in connection with the liquidation of the fund.

2. On receipt of a member's notice which shall be given within 2 months of the date of the announcement referred to in clause 1, to the effect that the member has entered into a contract with another open fund, the open fund shall by credit transfer remit the balance in the member's account to his or her account with the other fund. In the aforesaid circumstances the open fund shall not administer the charge referred to in Article 134 clause 1 item 2.

3. The employee fund shall forthwith communicate the substance [of the Supervision Office permit] referred to in clause 1, in such manner as the fund's Articles of Association may prescribe, to the shareholders of the employee society being the manager of the fund.

4. The fund shall forthwith inform the Supervision Office of the contents of the announcement referred to in clause 1 or, as applicable, of the communication referred to in clause 3.

5. Failing the discharge by the open fund of the duty referred to in clause 1 the Supervision Office shall have the announcement published for cost to the liquidator.

Article 71. 1. The liquidation of a fund shall consist in transferring its assets to a fund managed by that society which has taken over the management of the fund [under liquidation], or to a fund managed by that society which has taken over the fund's manager society as a result of the merger, and where the merger of societies is pursuant to Article 463 item 2 of the Commercial Code -- to that fund which is designated to survive the merger of societies, subject to clause 3.

2. The transfer of assets shall take effect on such date as may be appointed in the permit for the takeover of the management of the fund or for the merger of societies, the said date ensuing no later than 9 months of the day on which the Supervision Office has issued the permit. The day indicated in the permit shall be understood to be the fund liquidation completion date for purposes of Article 69 clause 2.

3. Upon supplying the Supervision Office with the information referred to in Article 70 clause 4 the fund under liquidation shall forthwith terminate its contract with the depositary having the custody of its assets and the fund may give notices of termination of contract, effective as of the liquidation completion date, to all others acting on the fund's behalf. Any such provisions of those contracts as may limit or exclude the termination of contract in the abovementioned manner shall be deemed non-existent.

4. As of the liquidation completion date the transfer of the liquidated fund's assets to another fund shall be deemed effected and the receiving fund shall assume the entirety of rights and obligations of the liquidated fund. On the aforesaid date the receiving fund shall convert the existing accounting units of the taken over fund into its own existing accounting units.

5. The assets of the taken over fund shall be turned over to the depositary having the custody of the receiving fund's assets subject to the terms and requirements set forth in Article 163.

6. deleted

Article 72. On completing the liquidation of the fund the liquidator shall forthwith notify the Supervision Office that the transactions referred to in Article 71 clauses 3-5 have been executed and the liquidator shall file with the registration court a motion requesting that the fund be struck off the register of funds.

Article 73. 1. The liquidation of that employee fund the management of which has not been transferred to another employee society shall be effected pursuant to Articles 74-78.

2. The dates on which the liquidation of the fund shall commence and end shall be determined in the decision of the Supervision Office.

3. Article 69 clause 3 and Article 70 clause 3 and clause 4 shall apply respectively.

4. The depositary shall be the liquidator of the employee fund unless another liquidator be appointed by the Supervision Office.

Article 75. The liquidation of the employee fund shall consist in disposing of its assets, repossessing the fund's receivables, satisfying claims of the fund's creditors, and dispensing the balances in the members' accounts in accordance with the members' instructions.

Article 76. 1. Where an employee fund is liquidated, the balances in the members' accounts shall not be dispensed otherwise than by:

1) credit transfer to another employee fund, where the [account-owner] member satisfies that fund's membership criteria, or

2) removal to a life assurance institution, on the terms set forth in the Employee Pension Plans Act, or

3) removal to an open-end investment fund or a specialist open-end investment fund, on the terms set forth in the Employee Pension Plans Act, or

4) payment to the member in a one-time disbursement.

2. Where a member has not issued instructions as to the manner of dispensing his or her account balance, the dispensing shall be in the manner described in clause 1 item 4.

3. Those account balances which have not been dispensed pursuant to clause 1 shall be deposited with the court.

Article 77. On completing transactions referred to in Article 75 the liquidator shall forthwith notify the Supervision Office to that effect and the liquidator shall at the same time file with the registration court a motion requesting that the liquidated fund be struck off the register of funds.

Article 78. The Council of Ministers shall by Ordinance prescribe the detailed procedure for liquidating the employee fund in the circumstances referred to in Article 73, in particular the manner and time limits for the issuance by the fund members of instructions on the manner of dispensing the balances in their accounts.

CHAPTER 6

Restraint of trade

Article 79. 1. An intent to bring about a merger of two or more general societies or take over the management of an open fund shall be notified to the Chairman of the Office for Competition and Consumer Protection in the event that the cumulative net asset value of the funds to be put, following the proposed merger or takeover of management, under a single manager [general society] should exceed, in any month of the year preceding that year in which the notification of intent is given, 33 percent total net asset value of all open funds.

2. The notification of intent to bring about a merger or take over the management, as covered in clause 1, shall be given within 14 days of that day:

1) on which shareholders of each of the societies involved in the [proposed] merger have in General Meeting adopted a resolution on the merger,

2) on which an application for the permit to take over the management of the fund has been filed with the Supervision Office following the revocation of the permit to create [that] general society [which has hitherto managed the open fund],

3) on which the contract on assigning the management of the open fund, as covered in Article 66 clause 1, has been executed.

3. The notification of intent shall be given:

1) with regard to the merger of societies - separately by the Management Board of each society concerned,

2) with regard to the takeover of the management of a fund -- by the Management Board of that society which proposes to assume the management of the fund.

4. The following shall be appended to the notification of intent to bring about a merger of societies: a duplicate of [the appropriate] commercial register entry; the Articles of Association of the societies involved in the merger; information on the funds managed by the said societies, indicating in particular net asset value of each of these funds and the funds' respective positions on the financial services market; and the documents referred to in clause 2, as applicable.

5. The Chairman of the Office for Competition and Consumer Protection shall within no more than 2 months -- and, in the circumstances referred to in clause 2 item 2, within no more than 1 month -- advise the party which has given the notification of intent that he or she raises no objections, or he or she shall by decision forbid the merging of the societies or, as the case may be, the takeover of the management of the fund. The aforesaid decision shall not be issued for reasons other than that the merger or, as the case may be, the assumption of the management of the fund would give the society a dominant position on the market or strengthen its dominance of the market.

6. Clauses 1-5 shall not apply where the management of an open fund is transferred [to another society] for the reasons referred to in Article 64 clause 2.

Article 80. To the extent not covered in this Act, the 24 February 1990 Prevention of Monopolistic Practices Act

[...]* shall apply to the merging of general societies or to the taking over of management of the open fund.

CHAPTER 7

Membership in pension fund

Article 81. 1. Membership in the open fund shall be acquired on execution of a contract with the fund.

2. The open fund shall not refuse to enter into the contract where the person applying for membership in the fund satisfies the requirements laid down in separate provisions.

3. Subject to Article 84, one person shall be a member of no more than one open fund.

4. Membership in a given open fund can also be acquired through a lottery held by the Social Insurance Institute in accordance with the principles stipulated in the provisions governing the social insurance system.

5. The Social Insurance Institute shall be obliged to communicate the results of the lottery. The interested party and the open fund which the party in question has joined shall be notified.

6. Together with the notification from the Social Insurance Institute a member shall receive the data on the open fund entered in the fund register, and the open fund shall receive the member's essential personal data referred to in Art. 89, clause 2; the open fund may also receive the data in an electronic format.

7. Having received the notification from the Social Insurance Institute and the member's essential personal data, in accordance with clause 6, the open fund shall confirm the membership conditions in writing without delay and shall call upon the member to meet the requirements specified in Art. 82, clause 1, and Art. 83, clause 1; it shall also inform the member of the consequences of failing to meet those requirements or mal-performing them, in accordance with Art. 132, clause 1 or Art. 83, clauses 3 and 4.

Article 82. 1. While entering into the contract with the open fund the applicant may name one or more persons to whom such proportion of the balance in his or her account as has not been otherwise dispensed pursuant to Article 131 shall be paid out on his or her death.

2. Where the member has named two or more persons entitled to receive upon his or her death the aforementioned residue of his or her account balance but has not specified their respective shares, these persons shall be deemed to benefit in equal proportions.

3. A member may change his previous instructions at any time, nominating individuals entitled to receive funds after his death, other than or besides the individuals referred to in clause 1, as well as otherwise specify the share which the individuals nominated have in those funds.

4. The naming of a beneficiary [under the testamentary disposition] shall be void where the beneficiary has predeceased the member. In such circumstances the deceased beneficiary's share shall pass in equal parts to the remaining persons named in the testamentary disposition, save where the member has otherwise disposed of it. However, if the deceased was the only individual nominated, the member may nominate another individual entitled to receive the funds after his death.

5. The fund shall be obliged to inform an individual joining the open fund of the consequences of failing to meet or mal-performing the requirement referred to in clause 4, sentence three, in accordance with Art. 132, clause 1.

Article 83. 1. While entering into the contract with the open fund the applicant shall furthermore submit a written statement explaining the property relationships existing between the applicant and his or her spouse -- and, in the absence of statutory community property, he or she shall document the [nature and legal basis of] the existing marital property arrangement. The aforesaid obligation shall attach equally to that member of the open fund who has contracted marriage subsequently to entering into the contract with the fund.

2. The member of the open fund shall notify the fund in writing of any such change [in his or her circumstances], relative to those named in the statement referred to in clause 1, which pertains to the balance in his or her account. A proof [of the changed circumstances] shall be appended to the notification.

3. In cases of failing to meet the requirement referred to in clause 1, sentence two, or in clause 2, it shall be assumed that there is statutory joint property of husband and wife between the spouses or that marital property relations are reflected in the agreement concluded with the open fund or the last notification sent by the open fund member in accordance with clause 2.”;

4. The open fund shall not be liable for any damage resulting from failure to meet or from mal-performing the requirement referred to in clause 1 or 2.

Article 84. 1. If a member of an open fund joins another open fund, he shall be obliged to notify (in writing) the open fund to which he has been paying contributions so far of having signed an agreement with the other fund. Together with the notification, the member shall submit a declaration of will - in writing, in accordance with a proforma specified in a decree of the Council of Ministers – to terminate the existing agreement, and if he has acquired membership resulting from a lottery held by the Social Insurance Institute or upon opening an account – a declaration of will to resign membership in the current open fund, effective from the date of the transfer payment referred to in Art. 119.

2. The authenticity of the signature on the declaration of will to resign membership in the current open fund and on the declaration of approval for the deduction referred to in Art. 134, clause 1, item 3, should be attested by any organisational unit of the Social Insurance Institute or local authority for the place of residence of the open fund

member or at a Polish diplomatic and consular post.”;

Article 84a.1. Individuals born in 1949-1953, concluding an agreement with an open fund, shall be obliged to submit a declaration in writing, stating that they have read Arts. 24, 26, 46-50, 53, 183, 184, and 185 of the Act of 17 December 1998 on Retirement Pensions and Other Pensions paid out of the Social Insurance Fund (Journal of Law No. -, item -), which the individual concluding the agreement should confirm with his own signature.

2. An individual engaged in acquisition on behalf of an open fund in relation to the individual specified in clause 1 shall be obliged to inform that individual of the implications of the regulations referred to in clause 1, in particular of the fact that as a result of joining an open fund a retirement pension paid out of the Social Insurance Fund may be significantly lower or that one will not be eligible for a retirement pension before reaching the age specified in Art. 24 of the Act referred to in clause 1.

Article 85. The Council of Ministers shall by Ordinance prescribe:

- 1) the manner and procedure for the execution of that contract which gives rise to membership in the open fund,
- 2) the manner of execution and time limits for the submission of: the statement concerning the open fund member's marital property relationships; and the notification, to be given to the open fund, of any change in the member's circumstances, relative to those named in the statement, pertaining to the balance in the member's account,
- 3) the manner in which the member notifies the open fund of having joined another open fund and the time limit for giving the said notification,
- 4) the procedures and deadlines to be observed by an open fund when notifying the Social Insurance Institute of having concluded an agreement with a fund member, and the scope of data that the notification should contain;
- 5) proformas of the declarations of will referred to in Art. 84

Article 86. 1. Eligible for membership in the employee fund shall be that natural person who satisfied the employee pension plan participation criteria laid down in the Employee Pension Plans Act.

2. That person who has ceased to satisfy the criteria referred to in clause 1 shall retain the status of an employee fund member.

Article 87. Membership in the employee pension fund shall be received as of the execution of an employee pension contract, pursuant to the Employee Pension Plans Act.

Article 88. A member may surrender membership in the employee fund, by terminating the employee pension contract, pursuant to the Employee Pension Plans Act.

Article 89. 1. The fund shall keep the register of fund members wherein the following shall be recorded: the members' principal personal data; contributions paid into the fund and credit transfers received and records of conversion of the contributions and credit transfers into accounting units; current balances in the accounts; and -- where the fund is an employee fund -- current [number and value] of shares in quantity accounts.

2. Essential personal data of the members referred to in clause 1 shall contain:

- 1) first and last names,
- 2) date of birth,
- 3) the PESEL ("Universal Electronic Population Records System") number, and if one does not have it or if there are doubts as to its correctness - the NIP Tax Identification Number, and the series and number of the member's identity card or passport;
- 4) residential address.”;

3. The keeping of the register of fund members may be delegated to a third person subject to Article 49.

4. The Council of Ministers shall by Ordinance prescribe the detailed standards and requirements on the keeping of the register of fund members, in particular the detailed specification of information to be recorded therein and the terms of making and safe-keeping back-up copies of the entries.

Article 90. 1. Cases concerning those claims which arise from legal relationships existing between the open fund members and the fund or its agency shall be examined and decided by the national insurance court of competent jurisdiction for the area of the fund member's residence.

2. The cases referred to in clause 1 shall be processed pursuant to the Code of Civil Proceedings' provisions on proceedings instituted on matters governed by the labour and national insurance law, excluding Article 460 paragraph 1, Article 461 paragraphs 1 and 2, Article 463 paragraphs 11 and 3, Article 467 paragraph 4, Article 476 paragraphs 1-2 and 4-5, Article 4771 paragraphs 1-2, Article 4772, Article 4776, Articles 4779-47714a.

Article 91. Cases concerning those claims which arise from legal relationships existing between the employee fund members and the fund or its agency shall be examined and decided by the common insurance court of competent jurisdiction for the area of the fund member's residence.

CHAPTER 8

Open pension fund: Sales promotion

Article 92. 1. The open fund shall not conduct sales promotion by offering additional pecuniary benefits to be gained for reasons of membership in the open fund -- where the said offer is made with the object of inducing a person to obtain or retain membership in the fund.

2. Clause 1 shall apply respectively to practices other than that referred to therein -- where the said practices include promising additional pecuniary benefits in return for the accession to or retaining membership in a certain open fund.

3. For purposes of clause 1 sales promotion shall mean any gainful occupation pursued with the object of inducing a person to obtain or retain membership in the fund. Sales promotion shall include executing on behalf of the open fund of contracts giving rise to membership in the fund, and rendering services of intermediary in connection with the execution of the said contracts.

Article 93.1. Acquisition activities on behalf of an open fund, in the scope specified in Art. 92, clause 3, may only be conducted by an open fund or, at the request of that fund, by the following entities:

- 1) domestic banks as defined in the Banking Law of 29 August 1997 (Journal of Law No. 140, item 939),
- 2) insurance companies,
- 3) brokerage houses as defined in the regulations governing public trading in securities,
- 4) insurance agents,
- 5) entities involved in brokerage activities as defined in the regulations governing insurance activities,
- 6) "Poczta Polska", a State-owned public utility enterprise,
- 7) co-operative saving and loan societies.

2. An entity conducting activities in connection with the preparation and publication of advertisements, as part of its business activities, commissioned by the entities referred to in clause 1, shall not conduct acquisition activities as defined in Art. 92, clause 3

3. Sales promotion transactions shall be executed solely by natural persons entered in the register of persons licensed to provide sales promotion services to open funds. The register shall be kept by the Supervision Office.

4. Where the open fund promotes its product and services without intermediary of those referred to in clause 1, no entity other than natural persons employed by the general society being the agency of the fund shall execute sales promotion transactions on behalf of the fund.

5. The making of sales promotion transactions on behalf of the open fund shall not be a commercial service, save where the natural person making the said transactions is an insurance agent or carries on the business of brokers as defined in the insurance business provisions.

6. An individual entered in the register referred to in clause 3 may conduct acquisition activities on behalf of only one open pension fund

Article 93a. The employer or any other individual superior to employees in terms of professional hierarchy may not offer the employees any acquisition services on behalf of an open fund.";

Article 94. 1. Eligible for being entered in the register referred to in Article 93 clause 3 shall be those natural persons who:

- 1) reside in the territory of the Republic of Poland,
- 2) have not been sentenced under a valid court verdict for a wilful offence against property, [or] against the credibility of documents, [or] against the Treasury, or for the offence referred to in Chapter 22,
- 3) are possessed in full of the legal capacity.

2. The Supervision Office shall enter a person in the register on the basis of a motion filed by that entity which conducts sales promotion on behalf of the open fund or, where the open fund does not use services of an intermediary, by the fund. Refusal to make the entry shall be given by the instrument of administrative decision. The entry shall be made or refused within 1 month of the date of filing the application.

3. The register of persons authorised to conduct sales promotion on behalf of open funds shall contain the following particulars:

- 1) the entry number,
- 2) principal personal data of [each] registered persons, covering:
 - a) the given names and surname,
 - b) the date and place of birth,
 - c) the parent's names,
 - d) the universal electronic census system number ("PESEL" number),
 - e) the registered address,
- 3) the name of the principal in whose name the registered person performs sales promotion transactions,
- 4) the name of that open fund on behalf of which the registered person performs sales promotion transactions.

4. The Supervision Office shall by the instrument of administrative decision strike a registered person off the register, whether on the motion of the said person's principal, or ex officio, where the said person:

- 1) no longer satisfies the registration criteria,
- 2) has not performed sales promotion transactions for more than 2 years,
- 3) has performed sales promotion transactions in an unlawful manner.

5. Where a registered person should discontinue the performance of sales promotion transactions in the name of his or her principal, the principal shall forthwith notify the Supervision Office to that effect whereupon the Supervision Office shall make a respective entry in the register.

6. Where a registered person has embarked upon sales promotion transactions made in the name of an entity other than his or her principal identified in the register, the other shall forthwith notify the Supervision Office to that

effect. The notification shall predate the commencement of sales promotion transactions [conducted on behalf of the other]. The Supervision Office shall on the basis of the notification update the register and remove the entry referred to in clause 5.

7. Subject to clause 6 the principal of the registered person shall notify the Supervision Office of any change in such particulars as are subject to recording in the register within 30 days of becoming cognizant of the same. Refusal to enter the change in the register shall be given by the instrument of administrative decision.

8. The Supervision Office shall charge, for making an entry in the register and for updating a register entry, a fee which shall be the Supervision Office's targeted income referred to in Article 203 clause 5. The fee shall not be charged upon the removal of entry from the register in the circumstances referred to in clause 4, nor upon making and removing from the register the entry referred to in clause 5.

9. The Minister of Finance shall, upon consulting the Chairman of the Supervision Office, set by Order the amounts and the terms and dates of payment of the fees due pursuant to the first sentence of clause 8, provided that the fee for making an entry in the register shall not exceed 250 percent of the lowest pay as defined in the Labour Code and the fee for updating an entry shall not exceed 100 percent of the said pay.

CHAPTER 9

Accounts and conversion of contributions

Article 95. Contributions shall be paid into accounts operated by the open funds, in amounts and on terms set forth in separate provisions, or into accounts operated by employee funds, in amounts and at intervals defined on the basis of the principles referred to in the Employee Pension Plans Act.

Article 96. 1. The employee fund contributions shall be paid in in the names of the employees being members of that fund.

2. The contributions referred to in clause 1 shall be paid in, in the name of the employees, by their employer being a shareholder of the employee society.

3. An employee fund contribution may likewise be made by means of the credit transfer referred to in the Employee Pension Plans Act.

Article 97. 1. Payments into the open funds and the employee funds may be made in securities, pursuant to separate regulations.

2. Payments into the employee funds may be made in the shares referred to in Article 101, pursuant to Chapter 10.

Article 98. Upon a member's accession to the fund the fund shall open for the member an account into which contributions shall be paid in and credit transfers made.

Article 99. 1. The contributions paid into the fund and the credit transfers received shall be converted into accounting units.

2. deleted

3. The total value of the accounting units shall be at all times equal to the total value of the fund's net assets converted into the said units.

4. The contributions and credit transfers received may likewise be converted into fractions of one accounting unit and the balance in the member's account may be given in the said fractions of an accounting unit.

5. The fund's net asset value and the value of one accounting unit shall be established according to the terms and standards governing the valuation of the funds' assets and liabilities.

6. The Council of Ministers shall by Ordinance prescribe detailed terms and standards on the valuation of the funds' assets and liabilities.

Article 100. 1. The contributions and credit transfers received shall be converted into accounting units on a date determined in accordance with clause 2, hereinafter called "conversion day", at that day's accounting unit value.

1a. The value of the accounting unit on the conversion date shall be determined by dividing the fund's net assets on the conversion date by the number of accounting units entered on that date into the accounts kept by the fund.

2. With regard to the employee fund the conversion day shall be the last working day of [each] month, unless other conversion days be additionally appointed in the fund's Articles of Association. As regards open funds, each working day shall constitute a conversion date.

3. On the first conversion day, which shall be understood to follow the payment into the fund of the first contribution, the value of one accounting unit shall be 10 zloty.

4. Prior to conversion, the contributions and credit transfers shall be kept in a separate money account of the fund. Interest accruing on money deposited in the said account shall be a revenue of the fund.

5. The securities referred to in Article 97 clause 1 shall be converted into accounting units pursuant to separate provisions.

6. deleted

CHAPTER 10

Quantity accounts

Article 101. 1. Those shares, be they free or discount shares, which employee fund members have received as a result of the privatisation of their employer shall be deposited in quantity accounts which shall be operated by the employee funds on the terms laid down in the Employee Pension Plans Act.

2. The employee fund may delegate the keeping of the quantity accounts to an operator authorised to keep securities accounts.

3. A single quantity account shall not be used as a deposit account for shares of more than one issuer.

4. Shares deposited in the quantity account shall be shown [on the fund's books] by quantity.

5. The employee fund members shall not have the disposal of the shares deposited in the accounts or of dividend on the said shares.

6. A member of the employee fund may dispose of his or her right to take up shares of a new issue subject to Article 105.

Article 102. 1. The employee fund shall wind up the members' quantity accounts and transfer the shares deposited therein to the fund's assets according to a quantity accounts winding-up agenda which the employee society shall adopt by a Supervisory Board resolution and notify to the Supervision Office no later than 3 months before that day on which the winding up of the accounts is scheduled to commence.

2. The agenda referred to in clause 1 shall determine:

1) certain dates by which to transfer certain shares to the fund's assets ,

2) the terms of establishing the number of those shares deposited in the accounts by individual members which are subject to transfer to the fund's assets, including shares deposited by those whose join the fund after the agenda has been released,

3) numbers of those shares deposited by individual members in the quantity accounts which are subject to transfer to the fund's assets by certain dates.

3. With regard to those who have joined the fund following the release of the agenda the dates by which to transfer [their] shares to the fund's assets shall be set on a case-by-case basis.

4. Shares shall not be transferred to the fund's assets otherwise than on a conversion day.

5. On the share transfer day such number of accounting units as corresponds, by value, to the value of the shares transferred from [each member's] quantity accounts reduced by tax due, shall be credited to each member's account. The shares shall be valued according to the fund assets valuation standards.

6. The winding up of a quantity account in which shares of a given issuer are deposited shall commence no later than 3 years of that day on which a share of that issuer's has been deposited for the first time in the account, and it shall be completed no later than 10 years of that day on which the first share transfer from the quantity account to the fund's assets has been made.

7. Where the Supervision Office should establish that the implementation of the agenda might proceed or has proceeded unlawfully or in a manner prejudicial to interests of employee fund members, the Supervision Office may suspend the implementation of the agenda and call upon the employee fund to remove the irregularities detected.

8. The transfer of public companies' shares deposited in quantity accounts to the employee fund's assets shall be effected to the exclusion of the regulated market as defined in the 21 August Public Trading in Securities Act [...]*. Article 38 clause 3 and clause 4 of the 30 August 1996 Act on Commercialisation and Privatisation of State Enterprises [...]* shall not apply to the said share transfer.

Article 103. 1. Where a member has requested the payment, settlement by credit transfer, or refund of the balance in his or her employee fund account, that member's quantity account shall be promptly wound up and such shares as have not been transferred to the fund's assets shall be returned to him or her, subject to clause 2.

2. Where the employee fund has made by-instalment payments in settlement of the member's account balance, the member's quantity account shall be wound up on that day on which the last instalment is paid and the shares deposited in the [quantity] account shall be turned over to the member.

3. Upon the death of a member being the owner of a quantity account, or upon dissolution, whether by divorce or annulment, of such member's marriage, the shares deposited in the member's quantity account shall be turned over to an appointed beneficiary. Article 130 and Article 133 shall apply respectively.

4. Clause 3 shall apply respectively where marital community property should discontinue during the life of the employee fund member's marriage or where statutory martial community property should be excluded or limited under a contract between the member and his or her spouse.

Article 104. Dividend on the shares deposited in the member's quantity account and that price for which the employee fund has sold for the member his or her new issue rights shall be paid into the member's accounting-units account.

Article 105. The Minister of Finance shall by Ordinance prescribe the detailed requirements and standards on the execution and settlement of those transactions whereby the employee fund sells for the fund member new issue rights carried by the member's shares deposited in the quantity account, and detailed requirements and procedures for the exercise of the said rights by the fund member personally.

Article 106. 1. Where the number of a given issuer's shares deposited in the employee fund's all quantity accounts should exceed 1 percent of that issuer's [issued] shares, rights in the said shares other than property rights shall be exercised by a representative of those fund members who hold the shares in their quantity accounts, hereinafter called "representative".

2. The representative shall be elected for a 3-year term, by secret ballot, by those fund members who hold the said issuer's shares in their quantity accounts.
3. The procedure for the election of the representative shall be laid down in rules adopted by the Supervisory Board of the employee society. The rules shall establish in particular whether the members elect the representative directly or by their chosen representatives, and it shall lay down the terms of recalling the representative before the end of his or her term of office. The rules shall not make the validity of the election contingent upon a certain turnout.
4. Article 45 clause 4 shall apply respectively.

CHAPTER 11

Disbursement of account balance

Article 107. 1. The fund member shall not be free to dispose of the balance in his or her account.

2. Clause 1 shall not apply to the fund member's testamentary disposition.

Article 108. The balance in the open fund member's account shall not be subject to execution.

Article 109. The balance in the employee fund member's account shall be subject to execution on the terms laid down in the Employee Pension Plans Act.

Article 110. The terms of acquisition by the open fund member of the right to withdraw the balance in his or her account and the terms of disbursement of the said balance shall be governed by separate provisions.

Article 111. The disbursement of the balance in the open fund account shall be effected by removal of the said balance to that pension insurance company indicated by the [account owner] fund member from which the member has taken out a for-life pension policy.

2. The Council of Ministers shall by Ordinance prescribe detailed requirements and procedures for the issuance by the open fund member of instructions concerning the removal of his or her account balance to a pension insurance company in connection with the taking out of a for-life pension policy, and for the removal of the balance to the pension insurance company.

Article 112. The manner of employing the balance in the open fund account of that member who has obtained a social security invalidity pension entitlement shall be governed by separate provisions.

Article 113. The terms of acquisition by the employee fund member of the right to have the balance in his or her account paid out, removed by credit transfer, or refunded shall be as laid down in the Employee Pension Plans Act.

Article 114. 1. The employee fund shall offer to its members the option of having the entirety of their account balances paid out in an one-off disbursement.

2. The account balances may likewise be paid out by instalments, on such terms and according to such procedures as may be set in the [employee] fund's Articles of Association.

3. The account balance shall be paid out, whether in the both or in one of the aforesaid forms, at the member's written request.

Article 115. The one-off disbursement shall be made no later than 3 months of that day on which the employee fund has received the member's payout notice.

Article 116. Where the account balance is paid out by instalments, the first instalment shall be due no later than 1 month of that day on which the employee fund has received the member's payout notice, save where the member has stipulated that the payment be made at some later date.

Article 117. Where the payment of the account balance is made by instalments, the member may at any time demand that the amount outstanding be paid in an one-off disbursement. That one-off disbursement shall be made pursuant to Article 115.

Article 118. Where the employee fund member has not given a payout notice to the fund before or on his or her seventieth birthday, the fund shall pay out the member's account balance in an one-off disbursement within 3 months of the member's seventieth birthday.

Article 119. Where the open fund member has joined another open fund, the hitherto fund shall make credit transfer to that fund which the member has joined, on the basis of the member's notification that he or she has entered into contract with the other fund. The open fund to which the credit transfer has been made shall not refuse to receive the same.

2. deleted

Article 120. The employee funds shall make credit transfers on the terms laid down in the Employee Pension Plans Act.

Article 121. No credit transfer shall be made from an open fund account into an employee fund account or from an employee fund account into an open fund account.

Article 122. 1. Credit transfers between open funds shall be executed on the last working day of February, May, August, and November.

2. An amount of the credit transfer shall be established on the fifth working day preceding the transfer.

Article 123.1. Credit transfers between open funds shall be settled by the National Securities Deposit Joint-Stock Company hereinafter called "National Deposit".

2. A universal society which manages an open fund which has made a transfer payment shall refund the Social Insurance Institute the costs of the activities performed in connection with a member's transfer to another open fund;

it shall also refund the National Depository the costs of activities performed in connection with accounting for transfer payments.

3. The Council of Ministers may determine by decree the maximum fee referred to in clause 2

Art. 123a. The Council of Ministers shall specify by decree the deadline and procedure for making transfer payments in the circumstances referred to in Art. 70, clause 2, and Art. 119, and in the provisions of Chapters 12 and 13. In particular, the decree should specify the principles for the co-operation of the National Depository with the Social Insurance Institute and the co-operation of open pension funds with the Social Insurance Institute in accounting for transfer payments, and the manner of applying interest on funds kept in an account, transferred by open funds as part of accounting for that payment.

Article 124. The detailed procedures for the settlement of credit transfers between open funds shall be determined by the National Deposit in Rules which shall be approved by the Supervision Office. The by-laws shall also specify the amount of fees payable to the National Depository by open funds in connection with accounting for transfer payments

Article 125. The [execution of] a credit transfer shall not exclude the liability of the society being the agency of the transferor fund to the former fund member or to that other person for credit to whom the transfer has been made.

CHAPTER 12

Distribution of account balance following divorce or annulment of marriage

Article 126. Where the marriage of the open fund member has been dissolved by divorce or annulment [and where] the member's account balance has been awarded to the member's former spouse under the community property settlement, the said account balance shall be remitted by credit transfer to the former spouse's open fund account.

Article 127. The open fund shall make the credit transfer within the period of time referred to in Art. 122, after presenting the fund with evidence that the member's account balance has been awarded to the former spouse.

Article 128. 1. The fund shall immediately confirm in writing the membership conditions applicable to the eligible spouse. As of the opening of the account the beneficiary former spouse shall acquire membership in the fund.

Article 81 clause 1 shall not apply.

2. In the circumstances referred to in clause 1 the open fund shall call upon the beneficiary former spouse to discharge forthwith the duty referred to in Article 82 clause 1.

Article 129. Articles 126-128 shall apply respectively where community property should cease during the life of the open fund member's marriage, or where statutory community property should be excluded or limited under a contract between the fund member and his or her spouse.

Article 130. 1. In the event of dissolution, whether by divorce or by annulment, of the marriage of the employee fund member, the member's account balance falling under community property shall be paid out directly to the member's former spouse within 3 months of that day on which evidence that the account balance has been awarded to the member's former spouse has been submitted to the fund.

2. Clause 1 shall apply respectively where community property should cease during the life of the employee fund member's marriage, or where statutory community property should be excluded or limited under a contract between the employee fund member and his or her spouse.

CHAPTER 13

Distribution of account balance on death of pension fund member

Article 131. 1. Where the member of the open fund had at the time of his or her death a living spouse the fund shall by credit transfer remit one-half of the balance in the deceased's account to his or her spouse's account with an open fund, insofar as the said account balance was subject to community property.

2. The credit transfer shall be effected within the period of time referred to in Art. 122, after the widowed spouse has presented to the fund: duplicates of the death certificate and the marriage certificate; and a written statement declaring whether or not the decedent's circumstances had changed, relative to those described in the statement referred to in Article 83 clause 1 or in the notification referred to in Article 83 clause 2, by the time of his or her death; and -- where the circumstances had changed -- a proof of the changes.

3. Where the decedent's spouse has no account with an open fund, Article 128 shall apply respectively.

4. If the deceased failed to meet the requirement specified in Art. 83, clause 1, sentence two or in clause 2, his/her spouse should confirm in writing that the property relations between the spouses, determined in accordance with Art. 83, clause 3, did not change up to the death of the fund member; if those relations did change, the spouse in question should produce relevant evidence of those changes.

5. The open fund shall not be liable for any of the consequences of failing to meet or mal-performing the requirement referred to in clause 2 or 3.

Article 132. 1. That proportion of the balance in the deceased open fund member's account which has not been dispensed pursuant to Article 131 shall be remitted to those whom the decedent had named pursuant to Article 82 clause 1 and, and if there are no such individuals or none have been nominated, in equal parts to the decedent's nearest relations. The nearest relations shall be understood to include: spouse, children, parents and grandchildren of

the decedent.

2. The decedent's spouse and children shall be primary beneficiaries of that proportion of the decedent's account balance which descends to his or her nearest relations and the parents and grandchildren shall be secondary beneficiaries .

3. The open fund shall disburse that proportion of the account balance which descends to the beneficiary named by the decedent or to the decedent's nearest relative within 3 months of the date of service upon the fund of an official document wherein the beneficiary is identified, provided that the share due to the decedent's spouse may be remitted, at the spouse's request, to his or her open fund account -- in which case Article 128 shall apply respectively to the disbursement by credit transfer of the share descending to the deceased member's spouse.

4. The disbursement made directly to a beneficiary named by the decedent or to the decedent' nearest relative shall be made either as a one-off payment or by instalments which shall be spread over no more than 2 years, according to the beneficiary's written instruction.

5. The terms of by-instalment disbursement shall be laid down in the open fund's Articles of Association.

Article 133. 1. In the event of the employee fund member's death the balance in the deceased member's account shall be paid out to that person whom the decedent named as the beneficiary after his or her death. Where the decedent made no testamentary disposition, the account balance shall be included in his or her estate.

2. The account balance referred to in clause 1 shall be paid out directly to the beneficiaries, within 1 month of that date on which the fund has been furnished with proof that the account balance descends to those beneficiaries.

CHAPTER 14

Pension fund: Financing of operations

Article 134. 1. The open fund shall not administer charges otherwise than:

1) by deducting a certain amount, given in percent, from contributions paid in -- provided that the said deduction shall be made before the contributions have been converted into accounting units,

2) by way of deducting, when making a transfer payment, a specific amount from the funds in a fund member's account, on condition that such a deduction can only be made if less than 24 months have passed between the date of entering the first contribution into a fund member's account with that fund and the date of a transfer payment to another open fund.

3) by way of deducting, when making a transfer payment, an amount equivalent to 4% of the lowest salary determined by the minister for labour issues, on the basis of Art. 774 of the Labour Code, irrespective of the amount referred to in clause 2.

2. The fund shall forthwith remit to the general society sums equivalent to the charges referred to in clause 1.

Article 135.1. The open fund shall apply the same method of assessing and administering the charges referred to in clause Article 134 clause 1 in respect of all members, provided that the charges referred to in Article 134 clause 1 item 1 may be reduced in respect of members with such long membership records as may be determined in the fund's Articles of Association but the charges shall not be varied in respect of members having equal records of membership.

2. The following shall also be taken into consideration when determining the duration of membership in a given open fund:

1) the duration of membership in an open fund of a different type, referred to in Art. 229, clause 2, managed by the same universal society,

2) the duration of membership in another open fund if it was liquidated by having its assets transferred to that fund.

3. Membership, in consideration of clause 2, shall start on the date of payment of the first contribution to an open fund. For the purposes referred to in clause 1, it shall cover uninterrupted membership in a given open fund, exclusive of periods of over 12 consecutive months during which no contributions were paid.

Article 136. 1. Such costs arising from the execution of fund assets purchase or sale transactions as represent an equivalent of charges paid to those third persons whose services of intermediary the fund must use pursuant to separate provisions, and such costs involved in the custody of the said assets as represent the depositary's fee, shall be covered by the fund directly from the fund's assets.

2. The fund may likewise cover directly from its assets costs of management of the fund by the society, in such amount as may be set in the Articles of Association provided that the said amount shall not exceed in a single month 0.05 percent of the value of the net assets so managed. The said amount shall be established separately for each fund net asset valuation day and it shall be paid on the last working day of each month.

3. The value of the investment instruments referred to in Article 141 clause 1 item 8 and of the units [and shares] of foreign-domiciled mutual investment institutions referred to in Article 143 clause 1 shall not be taken into account for purposes of assessing the value of the fund's managed net assets referred to in clause 2.

Article 137. 1. Those operating costs of the fund which are not covered directly from the fund assets shall be covered by the society.

2. The employers being shareholders of the employee society shall cover the society's operating costs on such terms as may be laid down in the society's Articles of Association.

Article 138. The Council of Ministers shall by Ordinance establish the charge assessment rules and maximum

amounts of the charges referred to in Article 134 clause 1 item 2.

CHAPTER 15

Pension fund: Investment

Article 139. When investing its assets the fund shall proceed according to the provisions of this Act, seeking to maximise the security and profit efficiency of investment.

Article 140. The shares held on deposit in the quantity accounts and the balance in the separate money account referred to in Article 100 clause 4 shall not be taken into account for purposes of establishing those proportions of the employee fund assets which may be invested in certain categories of instrument.

Article 141. Subject to Article 146, the fund assets shall not be invested in any category of instruments other than:

- 1) bonds, bills and other securities issued by the Treasury or the National Bank of Poland, likewise in loans and credits made to the aforesaid subjects,
- 2) those bonds and other debt instruments representing the issuer's pecuniary obligation which are guaranteed or backed by the Treasury or the National Bank of Poland, likewise in deposits, credits and loans guaranteed or backed by the aforesaid subjects,
- 3) bank deposits and bank securities,
- 4) shares of companies listed with a stock exchange,
- 5) shares of companies quoted on a regulated over-the-counter market or of those companies which, while not listed with a stock exchange or quoted on a regulated over-the-counter market, have been admitted for public trading,
- 6) National Investment Fund shares,
- 7) investment certificates of closed-end investment funds or hybrid investment funds,
- 8) units sold by open-end investment funds or specialist open-end investment funds,
- 9) those bonds and other debt instruments issued by local government entities, their associations and the capital city of Warsaw admitted for public trading,
- 10) those bonds and other debt instruments issued by local government entities, their associations and the capital city of Warsaw admitted for public trading,
- 11) those fully secured bonds of issuers other than local government entities, their associations and the capital city of Warsaw admitted for public trading,
- 12) those fully secured bonds of issuers other than local government entities, their associations and the capital city of Warsaw not admitted for public trading,
- 13) bonds and other debt securities issued by listed companies, other than the securities referred to in items 11 and 12,
- 14) such other instruments as the Council of Ministers may by Ordinance identify, provided that investment in derivative rights as defined in the Public Trading in Securities Act shall be made solely with the object of limiting the exchange rate risk involved in the instruments referred to in Article 143.

2. Subject to the limitations laid down in Article 142, the funds may invest their assets in units of open-end investment funds or specialist open-end funds providing that those investment funds' investment policies, conducted pursuant to their Articles of Association and published from time to time pursuant to separate provisions, admit investing in no other categories of instrument than those referred to in clause 1 and in Article 143.

3. Throughout this Act any reference to open-end investment funds, investment funds societies managing the said funds, and units sold by the said funds, shall be understood to include, respectively, the trust funds and trust funds societies referred to in the 22 March 1991 Public Trading in Securities and Trust Funds Act [...] and units sold by the said funds.

Article 142. 1. Investment in the categories of instrument referred to in Article 141 clause 1 items 1-9 and item 11 shall account cumulatively for no less than 95 percent of the pension fund's assets.

2. Investment in the categories of instrument referred to in Article 141 clause 1 items 2-13 shall be subject to the following limitations:

- 1) with regard to the instruments referred to in Article 141 clause 1 item 2, no more than 10 percent of the fund's assets shall be invested in a single kind of securities,
- 2) with regard to the instruments referred to in Article 141 clause 1 item 3, no more than 5 percent of the fund's assets shall be deposited with a single bank or with two or more affiliated banks, providing that with regard to a single bank or a group of affiliate banks selected at random the abovestated limit may stand at 7.5 percent,
- 3) with regard to the instruments referred to in Article 141 clause 1 item 7, no more than 2 percent of the fund's assets shall be invested in investment certificates of a single closed-end investment fund or a single hybrid investment fund,
- 4) with regard to the instruments referred to in Article 141 clause 1 item 8, no more than 5 percent of the fund's assets shall be invested in units sold by a single open-end investment fund or a single specialist open-end investment fund provided that the fund's total investment in all open-end investment funds and specialist open-end investment funds managed by a single investment funds society shall not exceed 15 percent of the fund's assets,
- 5) the total value of the fund's investment in all securities of a single issuer or of two or more affiliated issuers shall not exceed 5 percent of the fund's assets.

3. The limitations under clause 2 item 4 shall not apply to the employee fund.

4. The limitations under clause 2 item 5 shall not apply where the fund is bound to accept payments made in the form defined in Article 97 clause 1. Article 149 clause 2 and clause 3 shall apply respectively.

5. The Council of Ministers shall by Ordinance determine such maximum proportion of the open fund's assets as may be invested in each of the categories of instrument referred to in Article 141.

6. The Council of Ministers may by Ordinance determine such maximum proportion of the employee fund's assets as may be invested in each of the categories of instrument referred to in Article 141.

Article 143. 1. The fund may, under a general permit issued by the Minister of Finance by Order and on terms laid down therein, invest its assets outside the territory of the Republic of Poland in securities of companies listed with major stock exchanges of O.E.C.D. countries or of such non-O.E.C.D. countries as may be named in the permit, and in treasury bonds and bills issued by the governments or central banks of the said countries, and in units or shares of those mutual investment institutions domiciled in the said countries which offer their units or shares to the general public and redeem the same at the investor's request.

2. Article 142 shall apply respectively to the instruments referred to in clause 1.

Article 144. The open fund shall not invest its assets in:

- 1) shares or other securities of that general society being its manager,
- 2) shares or other securities of a shareholder of the general society being its manager,
- 3) shares or other securities of an affiliate of the issuers referred to in clause 1 and clause 2.

Article 145. The employee fund shall not invest its assets in securities of that employee society which is its manager.

Article 146. 1. The employee fund shall invest no more than 5 percent of its assets, cumulatively, in [a portfolio of] shares or other securities, unless those securities are admitted to public trading, of shareholders of the employee society being its manager and of those shareholders' affiliates.

2. Where the portfolio referred to in clause 1 covers both securities admitted for public trading and those not admitted for public trading, in the event that the securities admitted for public trading account for no less than 7.5 percent, by value, of the fund's assets the limit under clause 1 shall stand at 12.5 percent, by value, of the fund's assets.

Article 147. Where the fund's Articles of Association so permit, the employee fund may invest its assets in securities of shareholders of the fund's manager employee society or in securities of affiliates of those shareholders.

Article 147. The employee fund's Articles of Association shall determine whether or not the fund may invest its assets outside the territory of the Republic of Poland and it shall specify those securities, treasury papers, and units or shares of mutual investment institutions in which the fund may so invest.

Article 148. Any and all investment by the employee fund in units of open-end investment funds or specialist open-end investment funds shall be subject to the following limitations:

- 1) an investment funds society being the manager of that open-end investment fund or specialist open-end investment fund in units of which the employee fund has invested shall hold no more than 5 percent shares of any of the shareholders of the employee fund's manager employee society and no more than 10 percent of the total number of [issued] shares of all the shareholders of the said employee society,
- 2) the open-end investment fund or specialist open-end investment fund shall have on its portfolio no more than 5 percent shares of any of the shareholders of the employee society, 3) no member of the employee society's Management Board or Supervisory Board shall sit in the Management Board or Supervisory Board of that investment funds society which is the manager of the open-end investment fund or specialist open-end investment fund.

Article 149. 1. Where the fund has unintentionally infringed any provision of this Chapter, whether as a result of changes in those market prices which constitute the basis for the valuation of the fund's assets and liabilities, or as a result of exchange rate changes, or changes in organisational or cross-ownership relationships of the issuers of financial instruments in which the fund has invested, or following other developments beyond the fund's direct control, the fund shall forthwith take appropriate steps towards adjusting its investment portfolio to the requirements of this Act.

2. The fund shall adjust its investment portfolio to the requirements of this Act within no more than 6 months of that day on which an unlawful situation has developed, or of that day on which a valuation of the fund's assets has revealed the fund's unlawful situation, whichever occurs later.

3. At the fund's request which shall be filed no later than 1 month of that day on which the unlawful situation has developed or has been revealed, pursuant to clause 2, the Supervision Office may grant an extension of the time limit referred to in clause 2 up to 12 months where such extension serves the purpose of protecting interests of the fund members.

4. Where as a result of the implementation of the agenda referred to in Article 102 the fund should contravene -- with the object of protecting the employee fund members' interests -- the provisions of Article 146, the fund shall adjust its portfolio to the requirements laid down in Article 146 no later than within 1 month of that day on which such unlawful situation has developed or has been revealed, pursuant to clause 2, provided that the Supervision Office may at the fund's request grant an extension of the said time limit up to 6 months whereupon clause 3 shall apply respectively.

Article 150. The fund shall not:

1) sell its assets to:

- a) its manager society,
 - b) members of the [manager] society's Management Board or Supervisory Board,
 - c) employees of the [manager] society,
 - d) the spouses of the persons referred to in items b)-c) or those related with the said persons by consanguinity or affinity within the second degree,
 - e) shareholders of the [manager] society,
 - f) affiliates of the [manager] society,
 - g) affiliates of shareholders of the [manager] society,
 - h) the depositary having the custody of the fund's assets,
- 2) divert its assets to purchasing from any of the entities referred to in item 1 any of their assets,
- 3) make loans and credits and stand surety, subject to Article 141 clause 1, Article 143 clause 1 and Article 151.

Article 151. 1. The fund may employ its assets by making money loans to the entities referred to in Article 141 clause 1 item 4 and item 5. The said loans shall be equal [in status] to investment in aforementioned borrower's shares.

2. The fund may make loans of securities admitted for public trading, on such terms and subject to such requirements as the Council of Ministers shall by Ordinance determine.

Article 152. 1. The employee fund may delegate the management of the fund's assets, to the extent and on the terms laid down in the provisions on public trading in securities, to that entity which is authorised under the aforesaid provisions to render the services of portfolio manager and holds a permit to pursue the said business issued by the Securities and Exchange Commission.

2. The portfolio manager referred to in clause 1 shall be appointed by the employee fund under a resolution adopted by the Supervisory Board and it shall manage the entirety or a part of the employee fund's assets under an appropriate contract made with the fund and in accordance with the fund's investment standards laid down in the fund's Articles of Association.

3. In the circumstances referred to in clause 1 the employee fund's Articles of Association shall specify those terms on which the fund may delegate the management of the entirety or a part of its assets, or it shall vest in the employee society the authority to establish the said terms by the instrument of Supervisory Board resolution.

Article 153. With regard to the fund's foreign investment activity, the fund may entrust the management of its assets, to the extent determined in Article 143, to those entities domiciled in the countries referred to in therein which under laws and regulations in effect in the said countries may legitimately render the services of portfolio manager.

Article 154. 1. The loans and credits contracted by the fund shall not at any time exceed 2.5 percent, by value, of the fund's assets.

2. The employee fund shall not contract a loan or credit otherwise than on the authority of a decision issued by the employee society by the instrument of Supervisory Board resolution.

Article 155. The Council of Ministers may by Ordinance put additional constraints on investment by the funds, where [such additional constraints] are imposed with the object of protecting interests of the fund members.

Article 156. Failing the compliance by the fund with the investment standards and requirements laid down in this Act, or the discharge by the fund of the obligations under Article 149 clause 1, clause 2, and clause 3, the Supervision Office may impose on the society a fine of up to 500,000 zloty.

CHAPTER 16

Depositary

Article 157. The fund shall choose a depositary to have the custody of the fund's assets under a contract.

Article 158. 1. Eligible to be the depositary shall be that bank which:

- 1) is a domestic bank in the meaning given to that term in the Banking Law Act,
- 2) has own funds of no less than a zloty equivalent of ECU100,000,000 where the [contract is] for the custody of the open fund's assets, or of ECU30,000,000 where [the contract is] for the custody of the employee fund's assets,
- 3) owns no shares of the manager society of that fund the assets of which it keeps, nor shares of an affiliate of the said society, nor has any capital affiliation with the aforesaid entities,
- 4) is not a lender or creditor of that fund the assets of which it keeps, or of the fund's manager society -- save where the amount of a loan or credit [made to the fund or the fund's manager society] is no higher than 1 percent of the fund's assets, and
- 5) does not employ and does not have on any of its governing bodies persons who:
 - a) sit on the Management Board or Supervisory Board or are employees of the manager society of that fund the assets of which it keeps,
 - b) sit on the Management Board or Supervisory Board or are employees of an affiliate of the society referred to in item a).

2. The Supervision Office may be the depositary inasmuch as it satisfies the requirements laid down in clause 1

items 3-5.

Article 159. The duties of the depositary with regard to the custody of the fund's assets shall cover:

- 1) the keeping of a register of the fund's assets as entered in appropriate accounts and as kept by the depositary and by others authorised, whether under separate regulations or under contracts executed with the sanction of the depositary, to hold the same
- 2) ensuring that the fund's net asset value is established in a manner rendering the fund capable of discharging the duties referred to in Chapter 17,
- 3) ensuring that the contracts concerning the acquisition and disposal of fund assets are legitimate and according to the fund's Articles of Association,
- 4) carrying out instructions given by the fund, unless those be unlawful or contrary to the fund's Articles of Association, or unless, in the depositary's opinion, they put at risk the security of the fund assets,
- 5) ensuring that the fund's assets are invested lawfully and in accordance with the fund's Articles of Association,
- 6) ensuring that contracts concerning the fund's assets and contracts with the fund members are settled in a timely manner,
- 7) carrying out the liquidator's instructions pertaining to the liquidation of the fund,
- 8) discharging other duties provided in this Act.

2. The depositary may, at the fund's request, enter into the contracts referred to in clause 1 item 1 with banks or financial institutions domiciled outside the territory of the Republic of Poland, provided that those banks or financial institutions have own capitals of no less than ECU200,000,000.

3. The depositary shall, acting for the fund members, bring action against the society to seek redress for a loss suffered through non-performance or negligent performance by the society of its duties as the manager and representative of the fund.

4. The depositary shall ensure that the fund discharges the duties referred to in clause 1 items 2-3 and 5-6 lawfully and in accordance with the fund's Articles of Association and to this end the depositary shall, as a minimum, exercise day-to-day supervision of the fund's practical and legal transactions and shall cause these to be according to the law and the fund's Articles of Association.

Article 160. 1. An agreement with a depositary relating to storage of a fund's assets should specify the depositary and the fund's duties, the manner of their performance, the depositary's remuneration, the manner of calculating costs and collecting fees payable by the fund, as well as specify the individuals appointed by the depositary to carry out the agreement. The agreement may also specify the depositary's remuneration for acting as the fund's representative, in accordance with Art. 64, clause 1, or the employee fund's liquidator. The agreement must not limit the depositary's statutory responsibilities.

2. The depositary shall be liable for any and all losses due to non-performance or negligent performance of the statutory duties of the depositary.

3. The liability referred to in clause 2 shall not be excluded or limited either under the contract for the custody of the fund assets or on the grounds of delegation by the depositary of the custody of a part or the entirety of the fund assets to another.

4. The fund or the depositary may terminate the contract for the custody of the fund assets subject to a notice which shall be given at least 6 months in advance. The party giving the notice shall forthwith advise the Supervision Office to that effect.

Article 161. 1. Where the depositary should fail to discharge the duties set forth in the contract for the custody of the fund assets or perform the said duties negligently:

1) the fund shall give a notice of termination of the contract and advise the Supervision Office forthwith to that effect,

2) the Supervision Office may instruct the fund to replace the depositary with another.

2. The Supervision Office may likewise instruct the fund to replace the depositary with another where the depositary's financial standing has deteriorated such extent as may put at risk the security of the assets in the depositary's custody.

3. The National Bank of Poland shall forthwith advise the Supervision Office of any substantial downturn in the financial standing of any bank being the depositary referred to in clause 2.

4. The Securities and Exchange Commission shall forthwith advise the Supervision Office of any substantial downturn in the financial standing of the National Deposit in the circumstances referred to in clause 2.

5. In the circumstances referred to in clause 1 and clause 2 the contract may be terminated subject to a shorter notice period than that referred to in Article 160 clause 4.

Article 162. 1. Where the depositary should be proclaimed bankrupt, or where liquidation proceedings should be instituted in respect of the depositary, or where the Supervision Office should establish that the depositary is guilty of such breach of the contract as puts at risk the security of the fund's assets or interests of the fund members, the fund shall promptly replace the depositary with another. The first sentence of Article 160 clause 4 shall not apply.

2. Clause 1 shall apply respectively where the depositary should no longer satisfy any of the criteria under Article 158. The depositary shall forthwith advise the fund and the Supervision Office that it no longer satisfies the said criteria.

Article 163. 1. Whenever the depositary is replaced with another, the replacement shall be effected in a manner

ensuring uninterrupted discharge of the duties pertaining to the custody of the fund's assets.

2. On termination of the hitherto depositary's contract the hitherto depositary shall transfer the fund's assets held and all documents relating to the discharge of the duties referred to in clause 1 to that depositary with has succeeded it under a contract made with the fund. [The said transfer shall be made] within such time as the parties may agree upon, but without an unreasonable delay.

Article 164. The depositary shall advise the Supervision Office forthwith of any such act or negligence by the fund which in the depositary's opinion contravenes the law or the fund's Articles of Association, or through which the fund members' interests are not duly taken care of.

2. On becoming satisfied that the fund has established its net asset value, accounting unit value, and rate of return figures as referred to in Article 166, 169 and 170 incorrectly or by irregular methods, the depositary shall forthwith advise the Supervision Office of the said errors and irregular practices.

Article 165. Those assets of the fund which are deposited pursuant to this Chapter shall be exempt from execution against the depositary or against the entities referred to in Article 159 clause 1 item 1, nor shall they be included in the bankrupt estate of the depositary or of the abovestated entities, or involved in a proceeding instituted with a view to making an arrangement with creditors.

CHAPTER 17

Valuating pension funds' assets and rates of return

Article 166. The fund shall establish its net asset value on each valuation day referred to in Article 168, at the said day's figures, and the fund shall advise [the net asset value figure so established] to the Supervision Office.

Article 167. The valuation of the fund's net assets shall constitute the basis on which the value of the accounting unit shall be established pursuant to Chapter 9.

Article 168. 1. The open fund's valuation day shall be any working day other than a Saturday and the employee fund's valuation day shall be the last working day of each month.

2. The Articles of Association of the employee fund may additionally designate other valuation days.

Article 169. The fund shall establish the value of its accounting unit on each valuation day, at that day's figures, and it shall notify [the value of the accounting unit so established] to the Supervision Office and, where the fund is the employee fund, to one of those news agencies which the Supervision Office has designated.

Article 170. That open fund which has taken in contributions for no less than 24 months shall at the end of the last month of each quarter establish its rate of return for the past 24 months. The rate of return shall be notified to the Supervision Office and to one of those news agencies which the Supervision Office has designated.

Article 171. The fund shall notify to the depositary the figures and ratios referred to in Article 166, Article 169 and Article 170 promptly on establishing the said figures and ratios.

Article 172. The rate of return shall be understood as a quotient, given in percent, of the difference between the value of the accounting unit on the last working day of the last month of a given quarter and the value of the accounting unit as established on that last working day of a month which occurred 24 months earlier, and the said value of the accounting unit on the last working day of the month which occurred 24 months earlier.

Article 173. 1. The 24-month weighted average rate of return of all open funds shall be understood as the sum total of products established for each of the open funds referred to in Article 170 by multiplying the fund's rate of return by its average market share index. The average market share index of a given open fund shall be understood as an arithmetic average of that fund's market share index on that last working day of a month which immediately precedes a given 24-month period and its market share index on the last working day of that month which ends the said 24-month period. The open fund's market share index, as established for a given day, shall be understood as a quotient of the fund's net asset value and the net asset value of all the open funds referred to in Article 170, established at the index computation day figures.

2. The Chairman of the Supervision Office shall from time to time publish the weighted average rate of return of all the open funds.

Article 174. The Council of Ministers shall by Ordinance prescribe:

1) the detailed standards on establishing the rate of return and the weighted average rate of return of all the open funds, including the procedure for the rounding up of results

2) the manner in which the open fund shall notify its rate of return figure to the Supervision Office and the time limit for giving the said notification, and the manner of and time limit for the release by the open fund of its rate of return figure to the news agency,

3) the manner in which the Chairman of the Supervision Office shall publish the weighted average rate of return figure of all the open funds, as referred to in Article 173 clause 1,

3) the manner in which the fund shall notify to the Supervision Office its net asset value and accounting unit value figures and the time limit for giving the said notification.

CHAPTER 18

Deficit

Article 175. 1. The open fund shall be understood to be in deficit where its rate of return for the 24-month period referred to in Article 170 has fallen below a mandatory minimum rate of return.

2. The mandatory minimum rate of return shall be understood as a rate of return lower by 50 percent than the weighted average rate of all the open funds established for a given period, or a rate of return 4 percent points lower than the aforesaid average, whichever is lower.

3. The deficit amount shall be established by multiplying the number of the open fund's accounting units existing on the last working day of the 24-month period by the difference between such accounting unit value figure as would ensure the minimum rate of return and the real accounting unit value figure as established on the last working day of the 24-month period.

Article 176. 1. The open fund being in deficit shall, within 3 days of that day on which the Chairman of the Supervision Office has published the weighted average rate of return for all the open funds, divert the entire balance of the reserve account referred to in Article 181 clause 1 to offsetting the deficit.

2. Where the balance in the reserve account is not sufficient for offsetting the deficit, the general society shall cover the deficit from its own resources within 14 days of that day on which the Chairman of the Supervision Office has published the weighted average rate of return for all the open funds.

Article 177. 1. A deficit which has not been covered by a universal society's own funds, in accordance with Art. 176, clause 2, shall be covered by the Guarantee Fund resources within 21 days of the date on which the Chairman of the Supervision Office made a public announcement about the average weighted rate of return of all the open funds.

2. As a result of covering the deficit, the Guarantee Fund shall be entitled to a refund - from the universal society or its estate in bankruptcy - of the Guarantee Fund resources which were used to cover the deficit.

Article 178. 1. If a universal society is not able to cover the deficit in the manner specified in Art. 176, clause 2, its Board of Directors shall be obliged to notify the Supervision Office immediately, which shall file a bill in bankruptcy in respect of that society to the relevant court.

2. If the bankruptcy of the society is declared, its estate in bankruptcy may only be used to satisfy the claims of the Guarantee Fund, referred to in Art. 177, clause 2, after the society's liabilities to other creditors have been settled in the order specified in Art. 204, § 1, items 1-2, of the Decree of the President of the Republic of Poland of 24 October 1934, the Bankruptcy Law (Journal of Law of 1991, No. 118, item 512, of 1994, No. 1, item 1, of 1995, No. 85, item 426, of 1996, No. 6, item 43, No. 43, item 189, No. 106, item 496 and No. 149, item 703, of 1997, No. 28, item 153, No. 54, item 349, No. 117, item 751, No. 121, item 770 and No. 140, item 940, and of 1998, No. 117, item 756), but before settling the liabilities referred to in Art. 204, § items 2a-9, of that Decree.

Article 179. 1. Where the deficit has occurred due to the depositary having lost tangible assets of the fund, the depositary shall make good the deficit before the reserve account balance, or the general society's own resources, or the Guarantee Fund's resources have been employed to that end.

2. The depositary shall make good the deficit within 14 days of that date on which the deficit has been detected, whether the loss of the fund's assets has occurred through the depositary's fault or otherwise.

3. Where the Guarantee Fund has covered the deficit, this shall give rise to the Guarantee Fund's claim against the depositary or the depositary's bankrupt estate for the refund of the Guarantee Fund's money thus expended.

Article 180. The Treasury shall cover, as a guarantor, that deficit which is incapable of being covered from the Guarantee Fund's resources, on terms and according to procedures laid down in separate provisions.

Article 181. 1. The open fund shall set up a reserve account which the general society shall supply with its own resources.

2. The balance in the reserve account shall be part of the fund's assets.

3. The Supervision Office may impose a fine of up to 500,000 zloty on that society which fails to supply the reserve account pursuant to clause 1.

Article 182. The balance in the reserve account shall be exempt from execution against the general society.

Article 183. The Council of Ministers shall by Ordinance prescribe:

1) the detailed standards governing the offsetting of deficit in the circumstances referred to in Articles 176-179,

2) such proportion of the open fund's net assets as must be kept in the reserve account, providing that the said proportion shall be no lower than 1 percent and no higher than 3 percent of the fund's remaining assets and providing that the said proportion may be established taking into account the share of a given fund's net assets in the sum total of net assets of all the open funds,

3) the manner in which the general society shall establish the level of its reserve account provisions,

4) the manner in which the general society shall withdraw surplus money from the reserve account.

CHAPTER 19

Guarantee Fund

Article 184. The Guarantee Fund is hereby created, the National Deposit being its administrator.

Article 185. 1. The Guarantee Fund shall have the following revenues: contributions made by the general societies

from their own resources; and such incomes as the Guarantee Fund may earn by investing its resources. The Guarantee Fund resources shall be exempt from execution from the property of the general society.

2. A general society's contributions to the Guarantee Fund shall represent a certain proportion, given as a percentage share which shall be identical for all open funds, of the net asset value of the fund managed by that society.

3. The Council of Ministers shall by Ordinance establish the contribution rate and terms of making contributions to the Guarantee Fund, providing that the total value of the Guarantee Fund's resources shall be no higher than 0.1 percent of the cumulative net asset value of all the open funds unless the Guarantee Fund's liabilities to open pension funds exceeds that amount.

Article 186. 1. The manner and procedure for contributing to the Guarantee Fund and the manner and procedure governing the Guarantee Fund's performance, including those standards the Guarantee Fund shall follow when investing its resources, shall be laid down by the National Deposit in Rules which shall be subject to approval by the Supervision Office.

2. The Rules shall likewise prescribe the requirements and standards on the management of the Guarantee Fund's resources, the fees paid to the National Depositary for managing the Fund and the procedure for paying them, the detailed terms and procedures for disbursing the said resources and returning the same to general societies, and the manner of making settlements with those general societies which have ceased to contribute to the Guarantee Fund following the winding up of their business as defined in this Act.

3. The Rules may include such other provisions as are expedient for ensuring suitable performance by the Guarantee Fund.

Article 187. The Guarantee Fund resources shall be used for making disbursements to open funds in deficit -- insofar as the balance in the [fund's] reserve account and the general society's own means are insufficient for offsetting the deficit; and for covering the losses referred to in Article 48 clause 1 -- insofar as the general society is not liable for the losses, or the losses are incapable of being made good from the [general society's] bankrupt estate.

Article 188. For purposes of the corporate tax provisions, such money as the general society receives in refund of Guarantee Fund contributions shall be a revenue of the general society.

CHAPTER 20.

Reporting duties of pension funds

Article 189. The open fund shall at least once a year publish its offering circular in that national daily paper which is designated in its Articles of Association.

2. The offering circular of the open fund shall contain: the fund's Articles of Association, information on the fund's investment performance, and the fund's approved annual report.

Article 190. 1. The open fund shall make its offering circular available to any person who has applied for membership in the fund. The offering circular shall be made available [to the applicant] before the applicant and the fund have entered into a contract.

2. The open fund shall likewise make available its offering circular, together with the latest semi-annual financial statements, whenever a fund member should so stipulate.

3. The offering circular, the semi-annual financial statements and the annual report shall be submitted to the Supervision Office promptly on being prepared and the annual report shall be additionally so submitted upon being approved by the general society under a General Meeting resolution.

Article 191. The fund shall serve upon each member, at regular intervals of no more than 12 months, a written report on: the balance in the member's account; dates of receipt, within the reporting period, of member contributions and credit transfers; conversion of the said contributions and credit transfers into accounting units; and the fund's investment performance figures.

Article 192. The fund shall, when so instructed by a member, supply the member with a written report on the money value of the balance in the member's account.

Article 193. 1. The fund shall make available information concerning the structure of the fund's assets, subject to clauses 2-4.

2. The open fund shall at monthly intervals make available information on the respective percentage shares of separate categories of instrument referred to in Chapter 15 in the fund's assets, at a given month's last valuation day figures.

3. The open fund shall at 6-month intervals make available a report on the respective values of separate instruments on the fund's portfolio and on those instruments' respective percentage shares in the fund's assets, with the issuer of each instrument named. The above 6-month data shall be at the figures established on the last valuation day in the month ending a given 6-month period, provided that the 6-month data shall be prepared only for those instruments which account for 1 percent or more, by value, of the fund's assets.

4. The open fund and the employee fund shall make available a comprehensive review of the structure of the its assets, inclusive of instruments accounting for less than 1 percent, by value, of the fund's assets, at the end of each 1-year period.

Article 194. The open fund shall forthwith deliver the information referred to in Article 193 clauses 2-4 to the

Supervision Office and to one of those news agencies which the Supervision Office has designated and the open fund shall additionally publish the information referred to in Article 193 clause 3 and clause 4 in a national daily paper.

2. The employee fund shall forthwith deliver the information referred to in Article 193 clause 4 to the Supervision Office and to the shareholders of its manager employee society.

Article 195. The society and the fund shall furnish the Supervision Office with periodical reports and day-to-day information on their performances and financial standing.

Article 196. The Council of Ministers shall by Ordinance prescribe:

- 1) the detailed requirements and standards on the offering circular and such information as must at all times be given in the report referred to in Article 191 and Article 192,
- 2) the manner in which the fund shall make available the offering circular and the information referred to in Articles 191-193, and time limits for making the said materials available,
- 3) the scope of the [periodical] and day-to-day reporting by the society and the fund to the Supervision Office and time limits for the delivery of the said reports.

Article 197. 1. Such information concerning the open fund, including advertising material, as the general society may publish or at the request of the universal society, as well as on behalf of the universal society or an open pension fund, and such information concerning the employee fund as the employee society may make available shall reliably present the fund's financial standing and the risks involved in membership in the fund.

2. Where the Supervision Office should establish that the published materials or information referred to in clause 1 are misleading or open to misconstruction, the Supervision Office may forbid the same to be published or made available and order that appropriate corrections be published or made available by an appointed date.

3. Failing the compliance with the ban or order [referred to in clause 2] the Supervision Office shall impose upon the society a fine of up to 500,000 zloty and the Supervision Office shall have suitable corrections published or made available for cost to the society.

Article 198. Failing the discharge by the society or the depository of their reporting duties, as laid down in this Act, towards the Supervision Office or the fund members, the Supervision Office may impose [on the society or the depository] a fine of up to 500,000 zloty.

CHAPTER 21

Supervision of pension funds

Article 199. 1. The Office for Pension Funds Supervision is hereby created as a central administrative agency of the government.

2. The Supervision Office shall be subject to supervision by the Chairman of the Council of Ministers.

Article 200. 1. The Supervision Office shall be responsible for protecting the interests of members of the funds and members of the employee pension plans.

2. In discharge of the responsibility referred to in clause 1 the Supervision Office shall:

- 1) oversee the funds' performances,
- 2) inspire, organise and launch projects conducive to furthering the development of the funds system in Poland,
- 3) oversee the functioning of employee pension plans,
- 4) further public awareness of the funds' objectives and terms of operation, in particular of the rights appertaining to the fund members,
- 5) further public awareness of the objectives and terms of operation of the employee pension plans, in particular of the rights appertaining to the pension plan members,
- 6) working with administrative agencies of the government, the National Bank of Poland, the National Insurance Board, societies, agents of the funds, unions of employers, trade unions and other civic organisations towards the shaping of such policy of the state as will ensure secure development of the pension funds and employee pension plans,
- 7) supply the National Bank of Poland with information, to such extent as may be required for the exercise of supervision of depository banks and banks being shareholders of societies,
- 8) furnish the Securities and Exchange Commission with information, to such extent as may be required for the exercise of supervision of the performance of the National Deposit,
- 9) take other actions as provided in this Act.

Article 201. 1. The Supervision Office shall be headed by the Chairman who shall be appointed by the Chairman of the Council of Ministers for a 5-year term.

2. The Chairman of the Council of Ministers may recall the Chairman of the Supervision Office before the end of his or her term subject to approval of the Advisory Committee of the Supervision Office referred to in Article 211 clause 1, which approval shall be given by a resolution voted in on a simple majority in the presence of no less than two-thirds Advisory Committee of the Supervision Office members.

3. The Chairman of the Council of Ministers shall appoint and recall Supervision Office Vice-chairmen on the recommendation of the Chairman of the Supervision Office. The Chairman of the Council of Ministers may likewise on his or her own initiative recall Supervision Office Vice-chairmen.

4. The resources allocated to the emoluments of the Chairman, Vice-chairmen, General Director and personnel of the Supervision Office shall be determined annually in the Budget Act taking as the reference the societies' pay levels, inclusive of bonuses and pay surpluses.

4a. The Prime Minister shall specify by decree the principles for remunerating the individuals mentioned in clause 4, including the manner of determining the amount of funds for the remuneration referred to in clause 4.

5. The Chairman of the Council of Ministers shall by Ordinance grant the Supervision Office's charter wherein the organisation and objects of the Supervision Office shall be defined.

Article 202. 1. Save as otherwise directed in this Act, proceedings before the Supervision Office shall be governed by the Code of Administrative Proceedings.

2. The decision of the Supervision Office shall be appealable by complaint to the Supreme Administrative Court.

3. Where a motion stipulating that the Supervision Office consider the case on review is filed, this shall not stay the execution of the Supervision Office's decision revoking the permit to create the society for reasons other than those referred to in Article 61.

4. When determining the fine imposed in accordance with the provisions of the Act, the Supervision Office shall be obliged to take into account the type and relative importance of the irregularities revealed.

Article 203. 1. The expenditures of the Supervision Office shall be covered from the state budget, up to an amount authorised each year in the Budget Act.

2. A charge shall be administered monthly on each general society, in an amount not exceeding 0.02 percent contributions paid in a given month into the open funds managed by the society.

3. A charge shall be administered quarterly on each employee society, in an amount not exceeding 0.2 percent contributions paid in a given quarter into the employee funds managed by the society.

4. A charge shall be administered quarterly on each employer operating an employee pension plan, in an amount not exceeding 0.1 percent contributions paid in a given quarter on behalf of the employee pension plan members.

5. One-half of the money received in the charges administered by the Supervision Office and referred to in clauses 2-4 shall be a targeted income of the Supervision Office. The said income shall be diverted to improving the performance of the Supervision Office and professional qualifications of the Supervision Office staff, and to bonuses for the Supervision Office Chairman, Vice-chairmen, General Director and employees. The residue shall be an income of the state budget.

6. The Chairman of the Supervision Office shall establish the detailed pattern of allocation of the targeted income receipts and the standards and criteria of granting bonuses to the Supervision Office personnel in Rules which shall be approved by the Advisory Committee of the Supervision Office.

7. The terms and criteria of granting bonuses to the Chairman, Vice-chairmen, and General Director of the Supervision Office shall be laid down in the Charter referred to in Article 201 clause 5.

8. The Council of Ministers shall by Ordinance determine the levels of the charges referred to in clauses 2-4 and the procedure and time limits for the payment of the said charges.

Article 204. 1. In exercise of supervision of the funds' performances the Supervision Office may in particular:

1) instruct the society to make available copies of documents relating to the business of the fund, and study the said documents,

2) call on members of the society's Management Board and Supervisory Board and on employees of the society to supply such information or explanations as the Supervision Office has at its discretion demanded.

2. Those duly authorised by the Chairman of the Supervision Office shall have the right to enter the premises:

1) of the society -- with a view to ascertaining that the society conducts its business lawfully and in accordance with its Articles of Association,

2) of the depository -- with a view to ascertaining that such business as the depository transacts in connection with the custody of the fund's assets is lawful and in accordance with the contract for the custody of the fund's assets,

3) of that entity to which the fund has delegated the keeping of the register of fund members -- with a view to ascertaining that such business as the said entity transacts in connection with the keeping of the register is lawful.

3. The inspectors [referred to in clause 2] shall have the right:

1) to inspect books, documents and other vehicles of information,

2) to order duplicates of the said documents and vehicles of information to be prepared and turned over to the inspector,

3) to demand information from members of the inspected party's governing bodies and the inspected party's employees.

4. The society shall ensure that the inspector have access to all such books, documents and other vehicles of information relating to the business of the society as may be in third parties' possession for reasons of delegation to the said third parties, under separate contracts, of the execution of certain transactions.

5. The extent of each inspection shall be defined in the respective authority issued by the Chairman of the Supervision Office.

6. After the inspector has made a record of the transactions performed, the Supervision Office shall notify the inspected party of such irregularities as the inspection revealed and the Supervision Office shall appoint a time limit for the removal of the said irregularities.

7. Failing timely removal of the irregularities detected, the Supervision Office may administer upon the inspected

party a fine of up to 500,000 zloty. Where drastic irregularities have been detected, the Supervision Office may impose the fine immediately upon the exposure of the same.

Article 205. 1. A fund member may lodge with the Supervision Office a complaint against the fund where in the member's opinion the fund conducts its business unlawfully or uncontravention of the fund's Articles of Association.

2. A complaint against the fund may likewise be lodged by one who was a member of the fund at any time within a period of 6 month immediately preceding the lodging of the complaint.

3. A complaint against the fund may likewise be lodged on behalf of two or more fund members by that public-interest organisation the statutory objects of which do not include the pursuit of a business.

Article 206. 1. The Supervision Office may demand that the society call a meeting of its Management Board or Supervisory Board, or a General Meeting of its shareholders, and put certain matters on the agenda of the body thus convened -- where in the opinion of the Supervision Office this should be essential to correct supervision of the fund's business.

2. In the circumstances referred to in clause 1 the Supervision Office shall delegate its representative to attend the meeting of the Management Board or Supervisory Board, or the General Meeting. The said representative shall be authorised to speak on the matters on the agenda.

Article 207. On civil matters concerned with the forming and performance of the fund the Chairman of the Supervision Office shall have those powers which under the Code of Civil Proceedings are vested in the public prosecutor.

Article 208. The Chairman of the Supervision Office shall once a year report to the Chairman of the Council of Ministers on the work of the Supervision Office.

Article 209. 1. The Chairman, Vice-chairmen, General Director and employees of the Supervision Office shall not, while serving in the aforesaid capacities, be shareholders of the society or discharge the duties of the Management Board or Supervisory Board member, nor shall they be employees or agents of the society or be associated with the society under a similar legal relationship. 2. Clause 1 shall not prejudice the provisions on limitations on the conduct of business by those holding a public office.

Article 210. Article 49 shall apply respectively to the Supervision Office Chairman, Vice-chairmen, employees, and those whose legal relationship with the Supervision Office is that of agents or of a similar nature.

Article 211. 1. The Advisory Committee of the Supervision Office is hereby created as the Supervision Office's advisory and opinion-giving body responsible making available to the Supervision Office informed opinion on matters relating to the funds' performances and the functioning of the employee pension plans.

2. The tasks of the Advisory Committee of the Supervision Office shall include:

1) giving opinion on draft legislation concerning the funds' performances and the functioning of the employee pension plans,

2) giving opinion on Supervision Office work reports prepared by the Chairman of the Supervision Office,

3) putting before the Supervision Office opinions on matters relating to the funds' performances and to the functioning of the employee pension plans,

4) approving the removal from office of the Chairman of the Supervision Office,

5) approving the Rules referred to in Article 203 clause 6.

Article 212. 1. The Advisory Committee of the Supervision Office shall consist of 15 members.

2. The members, Chairman, and Vice-chairman of the Advisory Committee of the Supervision Office shall be appointed by the Chairman of the Council of Ministers from among candidates well-versed in matters relating to the tasks of the Supervision Office.

3. The Chairman of the Council of Ministers shall appoint no less than 6 members of the Advisory Committee of the Supervision Office from among candidates recommended by the Tripartite Commission for Socioeconomic Affairs.

4. Each member of the Advisory Committee of the Supervision Office shall be appointed for a 6-year term which shall commence on the day on which the member is appointed, providing that every 2 years the term of office of one-third members shall end. The members of the Advisory Committee of the Supervision Office shall continue to discharge their duties until their successors are appointed.

5. The Chairman and Vice-chairman of the Advisory Committee of the Supervision Office shall be appointed for a 2-year term.

6. Article 49 shall apply respectively to the members of the Advisory Committee of the Supervision Office.

7. The Chairman of the Council of Ministers shall by Ordinance set the terms of remunerating the members of the Advisory Committee of the Supervision Office and the remuneration amounts.

Article 213. The operating costs of the Advisory Committee of the Supervision Office shall be covered from the state budget.

Article 214. The standards of performance and work practices of the Advisory Committee of the Supervision Office shall be laid down in Rules which shall be adopted by the Advisory Committee of the Supervision Office and approved by the Chairman of the Council of Ministers.

CHAPTER 22

Penal provisions

Article 215. Whoever unlawfully incorporates the words referred to in Article 10 clause 2 or in Article 28 clause 1 in the name (trade name) of his or her business or uses the said words to describe or advertise his or her business, shall be liable to a of fine up to 1,000,000 or to imprisonment of up to 2 years.

Article 216. Whoever carries on, without a required permit, the business referred to in Article 2 clause 2 or Article 29 clause 1 shall be liable to a of fine up to 5,000,000 or to imprisonment of up to 5 years.

Article 217. Whoever, when taking investment decisions on behalf of the fund, infringes the investment standards laid down in this Act thereby putting at risk interests of a fund member, shall be liable to a of fine up to 1,000,000.

Article 218. 1. Whoever, while being responsible for information given in the offering circular, supplies such false data or conceals such true data as are capable of reflecting importantly on the substance of the resulting disclosure shall be liable to a fine of up to 5,000,000 zloty or to imprisonment of up to 3 years.

2. Whoever, while being responsible for such other information as is supplied pursuant to this Act to the fund members or to the Supervision Office, commits the act referred to in clause 1, shall be liable to a fine of up to 1,000,000 zloty.

Article 219. 1. Whoever, while promoting [the open fund's product], violates the ban under Article 92 clause 1 by offering the additional pecuniary benefits referred to therein with the object of inducing another to join the open fund or remain with the open fund shall be liable to a fine of up to 1,000,000 zloty.

2. Likewise liable shall be whoever, while not duly registered as an agent authorised to conduct sales promotion for the open funds, engages in sales promotion transactions for an open fund, or whoever conducts sales promotion otherwise than through the intermediary of one registered as an agent authorised to perform sales promotion transactions for the open funds.

3. Likewise liable shall be whoever, when conducting the business referred to in Article 92 clause 2, offers additional pecuniary benefits in return for the accession to a certain open fund or for remaining with that fund.

4. Any individual who, in defiance of the prohibition specified in Art. 230a, enters into agreements or accepts statements which put him under an obligation to join a given open fund or make use of the services of a given entity when joining an open fund shall be liable to the same penalty.

Article 219a. Any individual who is engaged in acquisition activities on behalf of an open fund and who infringes the principles specified in Art. 93a shall be liable to a fine of up to Zl 20,000.

Article 220. 1. Whoever, while being bound by a professional secret relating to the business of the fund, discloses or makes use of the same, shall be liable to a fine of up to 1,000,000 or to imprisonment of up to 3 years.

2. Whoever commits the act referred to in clause 1 for profit or for a personal advantage, shall be liable to a fine of up to 5,000,000 or imprisonment of up to 5 years.

Article 221. Whoever, while being bound to take the steps referred to in Chapter 18 in connection with a deficit suffered by an open fund, fails to discharge the relevant duties, shall be liable to a fine of up to 1,000,000.

Article 222. Subject to criminal liability under Articles 215-221 shall likewise be whoever commits the acts referred to in the aforestated Articles while acting for a corporation. * * *

CHAPTER 23

Modifications to provisions in effect

Article 223. In Article 476 paragraph 3 of the 17 November 1964 Code of Civil Proceedings Act [...] the period shall be deleted and the following words shall be inserted: "and cases brought in connection with those claims which arise under legal relations existing between the members of the open funds and the funds or agencies of the funds."

Article 224. In Article 7 of the 30 May 1989 Business Chambers Act [...] the following clause 1a shall be inserted after clause 1:

"1a. The limitations under clause 1 shall not apply where all the founders are, without exception, pension societies conducting their business pursuant to the provisions on the organisation and functioning of the pension funds."

Article 225. In Article 10 of the 28 July 1990 Insurance Business Act [...] the following clause 1a shall be inserted after clause 1:

"1a. Clause 1 shall not apply to sales promotion conducted by the insurance company on behalf of open funds and pursuant to the provisions on the organisation and functioning of the pension funds."

Article 226. The 26 July 1991 Personal Income Tax Act [...] shall be modified as follows:

1) In Article 2 clause 1 item 4 the period shall be replaced with a coma and the following item 5 shall be inserted: "5) revenues deriving from the division of the spouses' joint property following the cessation or limitation of community property.";

2) In Article 17:

a) item 4 shall be modified to read:

"4) dividend and those other revenues deriving from the sharing in corporate profits the title to which is carried by equity stakes (shares) in companies, including dividend on shares deposited by employee funds members in their quantity accounts; interest on member shares payable from that share of the cooperative's balance-sheet surplus

(earned income) which is attributable to the members; revenues arising from the distribution among the shareholders (members) of the estate of a liquidated company (cooperative); likewise, the value of services and benefits rendered and provided to [cooperative] members or shareholders free of charge or at a discount, the said value being established pursuant to Article 12 clause 3 and clause 3a,"

b) in item 6 the period shall be replaced with a coma and the following items 7 and 8 shall be inserted:

"7) revenues received in return for transferring to another, for a payment, of a [first refusal] right to shares of a new issue, including such revenue as the employee fund has received for selling the said [first refusal] right to shares of a new issue on behalf of a fund member,

8) revenues obtained by employee fund members due to the transfer to the fund's assets of the members' shares deposited in quantity accounts."

3) In Article 20 clause 1 shall be modified to read:

"1. The revenues from other sources referred to in Article 10 clause 1 item 9 shall include in particular: money paid after the death of an open fund member to a beneficiary named by the decedent or to the decedent's nearest relation as defined in the provisions on the organisation and functioning of the pension funds; social security benefits received in money; alimony other than child support allowances; scholarships; subsidies (grants) other than those referred to in Article 14; pay supplements, bonuses and gratuitous benefits other than the benefits referred to in Article 12, Article 14 and Article 17; and revenues unmatched by the [taxpayer's] disclosed sources of revenue.";

4) In Article 21 clause 1 item 57 the period shall be replaced with a coma and the following item 58 and item 59 shall be inserted:

"58) disbursements made from an employee pension fund's resources to a member of the said fund,

59) disbursements made from an open pension fund's resources for credit to the former spouse of a member of the fund, the said disbursements being made by credit transfer to an account maintained by the member's former spouse with an open pension fund.";

5) In Article 22 the following clause 1c shall be inserted after clause 1b:

"1c. With regard to employers being shareholders of the employee pension society, the cost of earning revenue shall likewise include:

1) expenditures incurred for the purpose of covering the operating costs of the employee pension societies,

2) the charges administered by the Office for Pension Funds Supervision, as referred to in the provisions on the organisation and functioning of the pension funds.";

6) In Article 24:

a) in clause 5 the period shall be deleted and the words "and dividend on the shares deposited by employee pension funds members in their quantity accounts." shall be added,

b) the following clause 5a shall be inserted after clause 5:

"5a. The income obtained due to the transfer to the fund's assets of the shares deposited in the employee pension fund member's quantity account shall be understood as the difference between the value, established in accordance with the standards of pension fund assets valuation, of the said shares on the day of the transfer and the purchasing cost of the said shares.";

7) In Article 30 clause 1 item 8 the period shall be replaced with a coma and the following items 9-11 shall be inserted:

"9) on those amounts which are paid out on the death of a member of the open pension fund to a beneficiary named by the decedent or to a decedent's nearest relative as defined in the provisions on the organisation and functioning of the pension funds, except for the disbursements referred to in Article 21 clause 1 item 59 -- at the rate of 20 percent of the revenue obtained,

10) on that revenue which a member of the employee pension fund has obtained due to the shares deposited in his or her quantity account being transferred to the fund's assets -- at the rate of 20 percent of the revenue obtained,

11) on revenues deriving from the sale by the employee pension fund, on behalf of a fund member, of that member's [first refusal] right to shares of a new issue -- at the rate of 20 percent of the revenue obtained."

8) In Article 41 the following clause 4a and clause 4b shall be inserted after clause 4:

"4a. The open pension fund acting as a withholding agent shall collect income tax, administered as a lump sum, on the disbursements referred to in Article 30 clause 1 item 9.

4b. The employee pension fund acting as a withholding agent shall collect income tax, administered as a lump sum, on:

a) the incomes referred to in Article 30 clause 1 item 10,

b) the revenues referred to in Article 30 clause 1 item 11."

Article 227. The 15 February 1992 Corporate Income Tax Act [...] shall be modified as follows:

1) In Article 6 clause 1 item 10 the period shall be replaced with a coma and the following item 11 shall be added:

"11) pension funds created pursuant to the provisions on the organisation and functioning of the pension funds."

2) In Article 15 the following clauses 1e-1g shall be inserted after clause 1d:

"1e. With regard to the general pension society the cost of earning revenue in a given tax year shall be understood to cover costs established pursuant to clause 1, and:

1) expenditures incurred by covering operating costs of the open pension fund,

2) amounts transferred to the open pension fund's reserve account,

3) expenditures incurred by covering the open pension fund's deficit, where the balance in the fund's reserve account is insufficient for making good the deficit,

4) the Guarantee Fund contributions referred to in the 28 August 1997 Act on Organisation and Functioning of Pension Funds [...] -- up to such amounts as may be set in separate provisions,

5) the charges administered by the Office for Pension Funds Supervision, as referred to in the Act referred to in item 4.

1f. With regard to the employee pension society the cost of earning revenue in a given tax year shall be understood to cover costs established pursuant to clause 1, and:

1) expenditures incurred by covering operating costs of the employee pension fund,

2) the charges administered by the Office for Pension Funds Supervision, as referred to in the Act referred to in clause 1e item 4.

1g. With regard to the employers being shareholders of the employee pension society the cost of earning revenue in a given tax year shall be understood to cover the costs established pursuant to clause 1, and:

1) expenditures incurred by covering operating costs of the employee pension society,

2) the charges administered by the Office for Pension Funds Supervision, as referred to in the Act referred to in clause 1e item 4."

3) In Article 17 clause 1 the following item 30 shall be added:

"30) the Guarantee Fund's incomes referred to in the Act cited in Article 15 clause 1e item 4."

Article 228. The 28 September 1994 Accounting Practices Act [...] shall be modified as follows:

1) In Article 2 clause 1:

a) in item 3 the word "or" shall be replaced with a comma,

b) the words "or the provisions on the organisation and functioning of the pension funds" shall be added after the words "the insurance business provisions";

2) In Article 64 clause 1 the following item 2a shall be inserted after item 2:

"2a) those entities which conduct their business pursuant to the provisions on the organisation and functioning of the pension funds,";

3) In Article 81 clause 3 the following item 5 shall be added:

5) upon consulting the Chairman of the Office for Pension Funds Supervision detailed accounting standards binding on the pension fund, including: standard forms of the balance sheet, of the profit-and-loss account, of the supplementary information sheets, and of other components of the financial statement; the deadline for the preparation and release of the annual report; the scope of the published annual report; the deadline for the approval of the annual report."

CHAPTER 24

Interim and final provisions

Article 229. 1. Till 31 December 2004 the general society shall manage no more than one open fund operating pursuant to this Act.

2. As of 1 January 2005 the general society may manage two open funds which shall bear, respectively, the designates "A-type open pension fund" and "B-type open pension fund".

3. That open fund which invests according to the terms and standards laid down in Chapter 15 shall before or on 1 January 2005 incorporate in its name the words "A-type open pension fund" .

4. The B-type open pension fund shall not invest its assets in the categories of instrument referred to in Article 141 clause 1 items 3-8, item 10, item 12 and item 14 and in Article 143.

5. The weighted average rate of return and the mandatory minimum rate of return shall be established separately for the A-type open fund and the B-type open fund.

6. Throughout this Act any reference to the ratio of an open fund's net asset value to the cumulative net asset value of all open funds shall, as of 1 January 2005, be understood to mean a ratio of the net asset value of an open fund of a given type to the net asset value of all open funds of that type.

7. Membership in the B-type open fund shall not be granted before the candidate's fiftieth birthday.

Article 230. When appointing the first Advisory Committee of the Supervision Office, the Chairman of the Council of Ministers shall indicate in respect of each member that he or she is appointed for a 2-year term, or for a 4-year term, or for a 6-year term.

Article 230a. Until 15 of February 1999 it is forbidden to conduct any canvassing practice, including this of advertising nature for the open pension funds and to perform canvassing activities for these funds.

Article 231. This Act shall come into force on 1 January 1999, except for:

1) Articles 199-214 and Article 230 -- which shall take effect on 1 May 1998,

2) Articles 1-60, Article 147, Article 152, Articles 157-164, Article 197, Articles 215-222 -- which shall take effect on 1 August 1998.

3) Art. 81-85, art. 90, art. 98 i art. 189-190 which shall take effect from 1 March 1999